

**SENATE—Friday, March 13, 1992**

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

**PRAYER:**

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

Let us pray:

*And he shall turn the heart of the fathers to the children, and the heart of the children to their fathers, lest I come and smite the earth with a curse.—Malachi 4:6.*

Gracious Father in Heaven, these words by the prophet Malachi, the final words of the Old Testament, speak to our hearts at a critical time in our culture, when dysfunctional families are epidemic, when we are awakening to the peril with which our profligate consumer lifestyle threatens the future of our children, this prophetic word encourages our faith. Aware of the failure of our generation which has mortgaged dangerously the future of generations to come, we are beginning to realize our responsibility to our children and to our children's children.

Thank you, Father, for the possibility that Malachi's prophesy is being fulfilled in our time. Forgive our addiction to instantaneous gratification, to possessions, to acquisitions which rob our children of their legacy. Forgive our failure as parents which has disintegrated our families and demoralized our Nation. Turn our hearts to our children and theirs to us.

In Jesus' name who said, \* \* \* *Suffer the little children to come unto me, and forbid them not: for of such is the kingdom of God.—Mark 10:14.*

**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, March 13, 1992.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

**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 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from West Virginia [Mr. BYRD] is recognized to speak for up to 20 minutes.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

**THE TAX BILL**

Mr. BYRD. Mr. President, I speak with reference to the tax bill that is pending before the Senate.

This will be a very difficult vote for me. I have repeatedly spoken out privately and publicly against a tax cut as a solution to our short- or long-term national economic problems.

Three days of hearings by the Appropriations Committee yielded testimony from five economists and others that a tax cut would not help the economy much in the short run and would be detrimental to the Nation in the long run.

I have the deepest respect and admiration for my friend and colleague, the chairman of the Finance Committee, LLOYD BENTSEN. He has a tough assignment and, as usual, has performed his task with dedication and diligence. Indeed, there are some provisions in this bill that might, over time, help the economy. No one can dispute that the Tax Code is skewed in favor of those in higher income brackets, and is not reflective enough of the needs of middle-American working families. But the cuts proposed here are not large enough to really help pull the economy out of its doldrums. Some of the other tax provisions in the legislation before us might actually prove harmful to the economy in the long run.

Additionally, this bill creates a new entitlement for higher education. Beginning in fiscal 1994, the Federal Government would fund loans of up to \$450

million—\$900 million in fiscal 1997—at 500 institutions selected by the Secretary of Education for postsecondary students of age 17 to 51, regardless of financial need. Each undergraduate student could receive a loan up to \$5,000 a year and as much as \$30,000 in his or her lifetime. Because the collection history of other Federal educational loans has been such a poor one, this proposal would require the loans to be repaid through the Federal income tax system under IRS enforcement. Although this program is limited to a 5-year trial period and the amounts loaned are capped, I am quite concerned that these limits would be lifted just as they were for Medicare years ago. We simply cannot afford another broad entitlement program.

This plan raises taxes on the wealthy. I have no problem with that. But instead of putting that sorely needed revenue toward deficit reduction or toward investment in America—something every economist who came before my committee said we had to begin to address—this plan parcels those revenues out to a rather narrowly drawn definition of the middle class.

This plan offers families with children a \$300 nonrefundable credit per child under age 16, but less than a dollar a day for each child will hardly accomplish much for that child.

If we are going to raise taxes, it would be much better to direct those revenues toward reducing the deficit, with the hope that we could leave those children less saddled with debt when they grow up. Ten years ago, the Federal debt breached \$1 trillion for the first time. This year, it will rise beyond \$4 trillion. Among the kindest things that we could do for the Nation's children would certainly be to begin to pay off the horrendous debt that has been incurred during the past decade.

Starting to pay off that debt will mean making some hard choices. It will mean cutting back on spiraling entitlement programs, reducing wasteful spending, and, in all probability, raising taxes. Taxes are easy to cut but hard to raise.

I say if we are going to take the difficult step of raising taxes, we should not squander those precious revenues in small tax cuts that do the economy and the recipients of those cuts little good. At a time when the pink slip is as dreaded throughout the country as the leprosy, the American people want jobs.

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

We are not going to grow our way out of our deficit problem or tax cut our way out of our productivity problem. We have been hearing that old story for a decade. We have to face the fact that putting this country on the right track again will mean doing some difficult things.

We need to invest in this Nation—in its people and in its infrastructure. We are falling behind in the global competitiveness olympics, and much of the reason is because our people's skills, education and training, and our Nation's physical infrastructure—our roads and our bridges, our airports and mass transit, our sewer and water systems—are deteriorating and making for lost man-hours and general inefficiency in the economy. We have to rebuild these economic underpinnings or our economy will continue to lag. The lack of a Federal commitment to these goals for the last decade has caused the States and local governments to have to hike revenues or cut services. Last year, the States raised their taxes by an all-time record \$16.2 billion. Therefore, any Federal tax cut we offer will likely not even be felt by those citizens who will have to turn right around and either pay higher local revenues or experience inadequate essential services.

No wonder the public is mad as hell. We politicians promise and promise and talk and talk, but the people do not see anything in their own lives that is improving.

Instead they see a Nation in decline and a falling standard of living.

Every economist who came before my committee testified that we had to invest in our people if we are ever going to see adequate growth. But the deficit has depressed our ability to make those important investments and it will continue to do so if we do not reduce it.

Likewise, our sluggish growth will worsen if we do not spend money on our own people to help them compete in the world.

There are those who will say that we are in a recession and that now is not the time to reduce the deficit. But we will not be in a recession forever, and if we do not start now, when will we begin?

I intend to do all that I can to try to salvage enough of the peace dividend to at least make some progress on rebuilding our crumbling national infrastructure and reeducating and retraining our people. That task will be complicated by opposition from the White House and by the practicalities of cutting back military personnel and military contracts in a recessionary, low-growth economy. But I believe that we can cut more deeply than the administration suggests, and I believe that there is plenty of fat and waste in that Defense Department budget.

Remember, wasteful Government spending is not confined just to domes-

tic discretionary programs. Pentagon spending is Government spending, too. The Appropriations Committee heard graphic testimony of waste in defense department inventories. I believe that those dollars should be salvaged and should be dedicated to investments here at home.

I regret that instead of grappling with this country's real economic problems and long-term solutions to those problems, we are here today talking about income tax fairness. Certainly it is a topic worthy of discussion and consideration, but this is not the time. Our country is faced with serious long-term problems and is currently in the longest recession since the great depression. Unemployment stands at 7.3 percent, a 6-year high, but if we count unemployed and underemployed workers who want full-time work, unemployment is really 13.3 percent.

This legislation will do little to speed the recovery or address our declining competitiveness.

Having said all of that, I will reluctantly support the legislation. At the outset, I said that this would be a very difficult vote for me.

Feeling as I do, I find it very difficult to support this bill. I will support it for only one reason. It is a reason that I know will be labeled as parochial. I expect that. But it is not a solely parochial issue, because this provision could have severe impacts on an already sick national economy. The provision of which I speak is, of course, the provision involving health care for retired miners.

Health benefits promised to retired miners and their dependents are in great jeopardy. The United Mine Workers of America health and retirement funds face a financial crisis because fewer and fewer coal companies are making contributions to the funds. Many employers stopped contributing because they went out of business. Others remained in business but simply stopped contributing. Whereas the contribution base of the funds once covered 80 percent of all coal production, today it covers less than 30 percent. For each dollar that companies contribute to the funds for their own retirees, they also contribute \$3 to cover the 90,000 beneficiaries who have been orphaned by other companies.

Under the provision in this bill authored by my friend and colleague, Senator JAY ROCKEFELLER, each company with beneficiaries in the fund will be responsible for its own retirees and will also participate, along with the rest of the industry, in paying for the retirees whose companies went out of business.

The program is not financed out of general tax revenues. Companies honoring current wage agreements will pay for their own retirees in a new 1991 UMWA Benefit Fund. Companies that are in business but which abandoned

their retirees will pay for them through the Coal Industry Retirees Health Benefits Corp. Eastern State coal companies will pay a 99-cent-per-hour premium to the corporation to provide benefits to the orphaned retirees whose last employer is no longer in business. Western State companies will pay a 15 cent per-hour premium. This disparity between Eastern and Western companies seems unfair, but there are fewer signatories to the National Bituminous Coal Wage Agreement in the West, and this compromise was necessary to have the provision included in the bill.

The fund's current deficit of over \$100 million will be eliminated by a transfer of excess assets from the overfunded UMWA pension plan. All benefits will be subject to mandatory cost containment, including managed care, preferred provider networks, generic drugs, and utilization review procedures.

Mr. President, without legislation of this nature, 120,000 miners and their dependents, most of them quite elderly and in poor health, could face a loss of their private health care coverage in the very near future. In West Virginia alone, there are 35,000 such retired miners and their beneficiaries.

Should such a cutoff occur, 120,000 retired miners and their families nationwide will be affected.

If such a cutoff should occur, I fear that widespread labor unrest will result in the Nation's coalfields. A strike involving all 50,000 UMWA members could mean lost earnings in the neighborhood of \$160 million per month. Couple that with the over \$1 billion per month in lost revenues from the coalfields and we have a recipe for disaster. With an economy already in trouble and struggling to rebound, massive coal strikes could be the straw that breaks the camel's back and sends our sickly economy into a further downward spiral.

It is only right that steps be taken to ensure that these elderly people be provided with the health care benefits they were promised and have been counting on.

Mining is a dirty, dangerous, difficult, but entirely necessary occupation. We cannot deliver a slap in the face to those who have given up so much to help supply the Nation's energy needs.

Former U.S. Secretary of Labor Elizabeth Dole appointed a Federal commission with members from coal, health insurance, law, medicine, and academia to examine issues related to retiree health care. The Commission's 1990 report called for Federal legislation to assure long-term financial solvency of the UMWA funds and the continuation of retiree health benefits. The Commission found: that "retired miners are entitled to the health care benefits promised and guaranteed

them, and that commitment must be honored."

So I will honor that commitment. Because of this provision, I will vote for this piece of legislation, most of which I oppose. There is a moral obligation to these miners to take action, and I believe that, without this action, nationwide coal strikes could have a dangerous effect on an economy already down for the count.

I realize that this legislation will in all likelihood be vetoed. But still, it is important to have this rescue of retired miners health benefits in some legislative format if meaningful negotiations to resolve the problem are to occur. Make no mistake about it, absent legislative action, this problem will not be resolved, and on behalf of the coal miners of West Virginia and the Nation, I thank Senator BENTSEN and the Finance Committee for trying to do something about it.

It is a problem which is illustrative of the overall state of health care in our Nation—inadequate or nonexistent health benefits for millions of Americans.

Mr. President, during the 1980's the American people were told that it was "Morning in America." We were bombarded with feel-good images of sunrises, idyllic farms, happy children, and prosperous young families. Hollywood could not have done better, or, perhaps more accurately, we were simply witnessing Hollywood at its best.

Now we are in the decade of the 1990's, and it is morning in America again, but this time we are waking up to a head-pounding hangover—a hangover caused by the excesses of the 1980's. We have awakened to find that the "Morning in America" of the 1980's was nothing more than a slickly packaged dream, and, for the majority of Americans, a bad dream at that. We have awakened to find the Federal Government nearly \$4 trillion in debt; to find our international economic competitiveness being challenged as never before; to find our children's educational achievements falling short of the mark; to find millions of Americans without access to adequate health care; and to find the Nation's core infrastructure suffering from a decade of neglect.

The much touted longest peacetime expansion in history has turned into the longest economic downturn since the Great Depression, and hope has been replaced by apprehension. Many Americans no longer feel that, given time, things will necessarily get better. Instead, there is a deep concern that our country has veered off course and is close to careening out of control.

Our people are looking for leadership. They want to know that Government understands, as they do, the enormous and growing challenges facing America. They want to know that America's leaders are willing to make the tough

choices necessary to correct our course and put us on the right track again.

America is faced with nothing less than the awesome task of virtually re-inventing itself. The Soviet Union is gone. A now over bloated military machine must be down-scaled, reshaped, and absorbed into a shaky domestic economy. We have to salvage what scarce resources we can muster and begin the rebuilding of our Nation's infrastructure and the reinvigoration of our people's skills. We have to make a start at reducing our enormous budget deficits and we have to craft some plan for dealing with the out-of-control growth of entitlement programs.

Those are the main events for this Nation and we had better turn our hands to the task quickly. No matter what the fate of this particular legislation, we have to get on with the enormous task of addressing our real problems. It is my hope that we can come to grips with a more pressing agenda—and the sooner the better.

Once again I commend Senator BENTSEN for his willingness to take on an impossible task and complete it with dignity and dedication. He skillfully crafted a bill that conforms with the pay-go provisions of the Budget Enforcement Act. He was determined to do that, and I commend him for that. He is entitled to great credit.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California [Mr. SEYMOUR] is recognized to speak for up to 5 minutes.

#### THE CRIME BILL

Mr. SEYMOUR. Mr. President, I rise today to discuss again the conference report to H.R. 3371, the crime bill. Much has been discussed already, but it is important to emphasize that one person will be watching the upcoming vote with great interest: Robert Alton Harris.

My colleagues have heard his name before. Californians know him all too well. He is an occupant of California's death row. He is a living symbol of a Federal habeas corpus process that is not working. And if the crime bill conference report becomes law, he will be exhibit A as to why the conference report is even worse than current law.

For any law-abiding citizen, Robert Alton Harris' story is nothing short of a nightmare.

In July 1978, Robert Alton Harris and his brother were looking for trouble of the worst kind. Out on parole from California State Prison for voluntary manslaughter, Harris and his brother were looking for a car to use in a bank robbery. They came upon two boys, aged 15 and 16, who were sitting in a car eating hamburgers. Harris pulled out a gun and ordered them to drive to a deserted area.

When they arrived at a deserted spot, Harris assured the boys that he had no intention of harming them if they walked away from the car and agreed not to identify him.

The boys agreed and started to escape. But Harris began to shoot one of the boys repeatedly in the back. The other ran and Harris gave chase. He found the boy in the underbrush, crying and begging for his life. Harris shot the youth four times.

Harris then returned to his first victim and proceeded to shoot him a few more times. He strode to the stolen car, ate the dead boys' hamburgers and went on with the bank robbery. No remorse, Mr. President. Just business as usual for one of the most ruthless killers in California's history.

The police captured Harris and his brother. Both confessed to their heinous crimes. At his jury trial, Robert Alton Harris admitted he murdered the two boys and a jury wasted little time to convict him. And little time was needed to arrive at a sentence: Death.

In 1981, the California Supreme Court affirmed Harris' conviction and sentence of death. That in and of itself was historic, because it was one of the rare occasions that a majority of the California Supreme Court ignored then Chief Justice Rose Bird and agreed that such a ruthless killer deserved nothing less than death.

But for the next 10 years, Robert Alton Harris made a mockery of the habeas corpus process. During that time, Harris filed 11 habeas petitions—8 State and 3 Federal—and not one has been found to have the slightest degree of merit.

In March of 1990, Harris filed yet another habeas petition that was granted just hours before his scheduled execution, and that appeal was formally ended this week by the Ninth Circuit Court of Appeals.

Today, San Diego Superior Court Judge Frederic Link is scheduled to sign Harris' death warrant and set a date of execution, the first in California in 25 years.

Of course, we can expect Robert Alton Harris to try to delay his execution.

And that brings me once again to speak of the crime bill conference report. One of the worst things about this conference report is that it reverses the landmark Supreme Court ruling in *Teague versus Lane* and thus affords Mr. Harris even more opportunities to delay his sentence.

Indeed, unless his attorneys find yet another way to delay his sentence, I can find no other human being on this Earth who has a greater stake in this conference report than Robert Alton Harris. For him, this report is a matter of life and death.

Now the distinguished chairman of the Judiciary Committee believes that we should overlook the fact that this

conference report could give Robert Alton Harris a new lease on life.

He has also urged us to overlook the fact that district attorneys and State attorneys general find the conference report's habeas provisions a sham.

And he has implicitly asked us to overlook the concerns of law-abiding citizens and crime victims. This I cannot do.

Mr. President, the crime bill conference report is not just about cold-hearted killers like Robert Alton Harris. It is about crime victims.

Mr. President, last week I received a copy of a letter to the chairman of the Judiciary Committee from Steve Baker. Steve Baker is a crime victim, Mr. President. He became a victim in 1978 when his son, Michael Baker, was murdered—murdered by Robert Alton Harris. You see, Mr. President, Michael Baker was one of the two youths gunned down that tragic day almost 14 years ago.

Steve Baker and all the members of the Baker family are crime victims. They have been forced to relive a tragic nightmare for 14 years—forced to relive the horror because of the endless delays that the habeas corpus process has afforded to Robert Alton Harris.

Our judicial system has caused this family enormous pain and sorrow. In Steve Baker's own words, "these ridiculous delays have caused great distress for our family \* \* \* it is like an open wound that cannot heal."

The conference report will do nothing to heal the wounds of the Baker family, Mr. President, or other crime victims across this country. In fact, if this conference report were to become law, it would be like putting salt on the Bakers' open wound, because it is obvious that this report will only give Robert Harris more opportunities to delay, more opportunities to dodge death, more opportunities to make a mockery of a system in dire need of real reform.

I understand that there are many groups who are for and against this conference report. We have heard that the cops on the beat are for this conference report, but district attorneys and attorneys general are against it. But I ask my colleagues to look beyond these interests and focus on two individuals: Robert Alton Harris and Steve Baker. One hopes the Senate will continue to make the death penalty unenforceable. The other simply wants the Senate to let justice be done. The sad thing is, Mr. President, this conference report offers hope to the wrong person.

The choice is simple: We can vote to give hope to victims, or further victimize them. Well I intend not to victimize the law-abiding citizens of my State or any other State. I intend not to give the slightest degree of hope to Robert Alton Harris or any ruthless criminal on death row. For that reason I cannot support the conference report. And I urge my colleagues who truly are con-

cerned with the rights of crime victims to do the same.

I thank the Chair and yield the floor.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY].

#### EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, since morning business time is just about up, I ask unanimous consent to extend morning business for 2 additional minutes so I can have my full 5 minutes.

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

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2352 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

#### THE MIDDLE CLASS BOOM OF THE 1980'S

Mr. ROTH. Mr. President, I come to the floor today to bring to my colleagues' attention an article in Thursday morning's Wall Street Journal. It is an important article because it sheds light on the misleading statistics and figures that are guiding our current debate on economic reform.

As I said earlier this week, I am not certain how we can expect to make responsible fiscal policy when the very foundation we are operating from is fatally flawed. What we are expecting to do is as impossible as an engineer trying to design an airplane with blueprints for a boat. Whatever results is not going to fly and it certainly is not going to float.

The attitude among many in Congress is that come what may, they are not going to let the facts get in the way of their politics. As a result they are using distortions and even misleading arguments to make a point for personal gain only and not for the well-being of America and Americans. Even last Wednesday night, using a point of order to kill President Bush's economic recovery plan, some of our colleagues resorted to CBO disinformation concerning the way the President's plan should be scored.

Let me tell the American people here and now, that depending on the CBO to be impartial in this debate is as futile

as depending on the Democratic National Committee. It is hoping for what never has been and what never will be. Today's Wall Street Journal makes the case clearly, and I hope my colleagues committed to truth will take the time to look at it.

I ask unanimous consent that the article by the respected economist, Alan Reynolds, be placed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. ROTH. Before I conclude, let me highlight six compelling points the article details:

First, the CBO income statistics being used in this debate are in error. The income data being used include gross mistakes—intentional or otherwise—that one nationally respected economist said would get a student flunked in elementary economics or statistics. What CBO did was misrepresent the data by failing to properly adjust their capital gains statistics for inflation. The result was a gross inflation of apparent income growth of those realizing capital gains.

Second, the CBO income statistics omit much of the capital gains of middle- and low-income families. They do this by ignoring much of the capital gains realized by these Americans in their homes and retirement assets.

Third, the CBO income data have included an estimate of capital gains income that is over 100-percent wrong. Despite the intensely partisan misuse of these data, CBO failed to disclose their error, either to the media or to the Members of Congress who depend on CBO. Even now these data, which contains a \$134 billion error, is still being thrown about for the sole purpose of political gain.

One hundred and thirty-four billion dollars. That is not an error; that is an outrage. This error reveals the fact that CBO, for political purposes, makes the assumption in its economic models that people do not respond much to changing tax rates. Well, that is wrong. We know it is wrong. History has proven it wrong. CBO knows it, and it is outrageous that they continue to use failed methods.

Fourth, the CBO income data fully include capital gains but exclude a large portion of capital losses. In other words if you have two investors, one who makes \$10,000 and the other who loses \$10,000, CBO would count the former making the \$10,000 while capping the losses of the latter at \$3,000. Somewhere \$7,000 goes unaccounted for and Congress ends up with patently partisan statistics.

Fifth, the CBO income statistics follow the usual liberal practice of combining the income meltdown of the Carter years with the growth years under Reagan, thereby blaming Carter

on Reagan. For example, the massive income declines of the year 1980—the worst in the postwar period—are usually lumped in with the Reagan years in order to drag down measured income growth. Then these intentionally fabricated statistics are brought to the floor and used to justify more bad liberal policy—namely higher taxes for Americans.

Finally, the Census Bureau data, as opposed to the phoney CBO data, make it clear that if the middle-class shrank in the 1980's, it shrank upward into the higher income range. According to the Census Bureau, the percent of American families earning over \$50,000 was 31 in 1990 versus 25 percent in 1980. Frankly, the middle-class economic crunch the liberals are trying to capitalize on in this election year, is nothing more than the fallout of the liberals' own record-setting tax increase of 1990. Do not try to hang the economic albatross and the responsibility for failed tax-and-spend policies around the neck of President Reagan's administration.

The American people know better. Just ask them: Were they better off following the Roth-Kemp tax cuts which resulted in the longest peacetime economic expansion in history and boosted real middle-class family income by 13 percent? Or are they better off now, following the Carter policies of 1980 and record-setting tax increase of 1990?

If some of my colleagues still are not certain of the answer, I suggest they just ask the folks back home. And for their benefit, I have printed the Wall Street Journal article in the RECORD.

#### EXHIBIT 1

[From the Wall Street Journal, Mar. 12, 1992]

#### THE MIDDLE CLASS BOOM OF THE 1980S

(By Alan Reynolds)

One of the more persistent myths about the previous decade is that a small number of people saw huge increases in their incomes, while middle-class incomes stagnated and the poor fell behind. A front page New York Times story last week, "The 1980s, A Very Good Time for the Very Rich," thus claims that 94% of all gains in real, after-tax income between 1977 and 1989 went to the most affluent 20% of families, with 60% of the gains supposedly concentrated among the top 1%.

The source of these figures is a December study prepared for the House Ways and Means Committee by the Congressional Budget Office. The CBO has once again tortured innocent statistics with typically creative agility. The biggest problems arise from using a "tax simulation model" to estimate capital gains. The largest capital gains for the middle class have been on houses and pensions, but such accrued gains are not taxable—so the CBO pretends they don't exist.

#### NOT ADJUSTED FOR INFLATION

Taxable gains, which alone are counted as income, are often realized on assets held for many years. Yet the CBO fails to adjust the basis of these gains for inflation, and fails to subtract non-deductible capital losses, and thus vastly overstates real income at the

top. Since the CBO's estimates of realized, nominal gains in a single year are counted as regular income, the effect is to overstate grossly real gains at the top while excluding, by definition, most gains in the middle. And since more high-income taxpayers realized gains while the capital gains tax was reduced, such increased sales of assets automatically show up as increased "income."

To make matters worse, CBO estimates of capital gains for recent years have been enormously inflated. In 1989, the CBO estimated that capital realizations would total \$254 billion in 1990. However, Rep. Richard Armey (R., Texas) notes that the actual figure came in at around \$120 billion.

Census Bureau surveys are not concocted from tax returns and dubious estimates, and they reveal a far different picture. For all U.S. families, average real income rose by 14.9% from 1980 to 1989, compared to 8.3% in the previous decade. Such a huge increase could not possibly have been confined to a small fraction of families.

A recent Business Week story claims "the bottom 20% of wage earners lagged behind inflation through the 1980s." This is misleading on two counts. First of all, very few family heads in the bottom 20% are "wage earners." Half of the family heads in the lowest fifth didn't work at all in 1990, while only 21% worked full-time all year. By contrast, more than 83% of the families in the top fifth had at least two people working (the average was 2.3).

Second, the claim that the bottom 20% lagged behind inflation is justified by starting with the inflationary boom of 1979 and ending with the recession of 1990. Average real income among the poorest fifth of families fell by 14.5% from 1979 to 1982, but then rose 11.9% between 1982 and 1989. Using 1979 as a base year (or using 1977 as the CBO did), simply averages the Carter collapse against the Reagan recovery. Average real incomes rose in every income group from 1982 to 1989, and were still significantly higher in the recession year of 1990 than in 1980.

The graph shows the really interesting story about what happened in the 1980s. If the middle class is defined as those earning between \$15,000 and \$50,000, in constant 1990 dollars, then there was indeed a "vanishing middle class" in the 1980s. But this certainly did not mean that those in the middle earned less. On the contrary, it means that 5.3 million families left the middle class by earning a lot more money. What actually happened is not that a fixed percentage of families earned higher incomes, but rather that a much larger percentage of families earned higher incomes.

As the graph shows, 30.5% of American families earned more than \$50,000 in 1990 (in constant dollars); only 24.7% earned that much in 1980. The percentage of families earning more than \$100,000, in 1990 dollars, rose to 5.6% in 1989 from 2.8% in 1980, before slipping to 5.4% in 1990 (the "top 5%" thus included all families with incomes above \$102,358, including all members of Congress).

It is impossible to describe accurately this increased percentage of families earning high incomes in terms of fifths (or "quintiles") of the income distribution. Because there were so many more families earning high incomes in 1990 than in 1980, it meant families now require a much higher real income to be averaged within the top 20%, top 5% or top 1%. In 1980, an income of \$53,716, in 1990 dollars, would put a family in the top fifth. By 1990, though, that goal post had to be raised to \$61,490. After all, it is not possible to fit 31% of all families into the top 20%.

Suppose some miracle had lifted the incomes of 60% of U.S. families above \$61,490, rather than 31%. At first glance, this would seem to be a good thing. Certainly the families affected would think so. Yet the effect on income distribution statistics would infuriate habitual income levelers. Since the income currently defining the "top 20%" could not possibly accommodate 60% of all families, a family might then need an income of something like \$200,000 to remain in the top fifth. Clearly, the average of all incomes above \$200,000 is bound to be higher than the average of those above \$61,490.

So, in this hypothetical widening of prosperity, there would doubtless be many hysterical stories reporting that average incomes rose sharply among the top 20%. Indeed, this must be true, by definition. However, incomes in this example would have risen sharply below the top 20% too, which is precisely why the minimum cutoff point defining the top 20% would have to be raised so high. This hypothetical example is simply an extreme illustration of what did, in fact, happen in the 1980s, and why it remains so widely misunderstood.

When statisticians added up all the incomes in the top 20% in 1990, they no longer included incomes between \$53,716 and \$61,490, which were included in the 1980 average. Any "average income" among the top fifth today is therefore certain to be much larger than before, simply because the supposedly comparable average in 1980 used to be diluted by lower incomes that no longer qualify. This is even more true of the top 5%, or top 1%, where the lowest cut-off point has risen far more sharply. In 1990 dollars, the top 5% included all families with incomes above \$84,088 in 1980, but only those with incomes above \$102,358 in 1990. Once again, we can scarcely be surprised that an average of all incomes above \$102,358 is larger than an average of incomes above \$84,088.

Averaging the incomes above two different income levels is particularly nonsensical at the top. This is because, unlike any other "fifth," the top has no ceiling. The middle fifth in 1990 consisted of families earning between \$29,044 and \$42,040, so the average in that group was roughly in the middle, \$35,322.

Even if thousands of families in this group managed to raise their incomes above \$42,040 in 1992, that would have very little impact on the average income of the group. Instead, families with increased incomes below the top fifth will simply move up into a higher fifth. If millions of families do that over time, the thresholds will gradually be pushed up a bit, raising the average. But the fact that every quintile below the top has a ceiling means it takes a very large number of families earning much larger incomes to create big gains in any of the lower four-fifths of the income distribution.

This is not so at the top, since all pay increases within a top income group must raise the average, rather than moving people into a higher group. At the top 1%, even a few hundred rock stars and athletes can boost the averages.

#### TAUTOLOGICAL CBO

Any average of "top" incomes—from "X" to infinity, where "X" must become larger as more families increase their incomes—is almost certain to grow faster than more narrowly defined income groups, where increases are limited by definition. CBO studies based on this simple tautology are no more enlightening than discovering that an average of all families earning more than \$10,000 a year always experiences greater av-

average income gains than families whose incomes are between zero and \$10,000.

What happened in the 1980s is that a much larger percentage of U.S. families moved up above income thresholds that used to define "the rich." This pushed the thresholds up, necessarily raising the average above the higher top thresholds.

The much-lamented "vanishing middle class" may be a political problem, resulting in a shrinking audience for politicians who base their campaigns on class warfare. But a larger percentage of relatively affluent families is not an economic problem. And all the statistical confusion resulting from an increased percentage of families with high incomes going to the top fifth, or top 1%, quite misleading, if not absurd.

Mr. ROTH. I thank the President and yield back the floor.

#### PELL GRANTS AND PROPRIETARY SCHOOLS

Mr. HEFLIN. Mr. President, a few days ago, the Senate passed legislation which, among other things, expands eligibility for Pell grants and raises grant levels in order to help more poor families. This measure also increases the availability of grants and loans to middle-income families. As we know, it has been the middle-income families that have been left out over the years, those individuals who save and try to send their children to college with their own hard-earned funds. With this legislation, we have an opportunity to assist the average working American in their efforts to educate their children. I would assert that we have an obligation to do so.

I support the expansion of Pell Grant Program amounts, a very important mechanism for assisting low-income students after they complete high school. The higher education reauthorization legislation improves the program so that needy students are afforded the chance to pursue higher education. It also helps to decrease the high default rates we find with loans. The program must be maintained as a viable program to guarantee this opportunity for low-income students.

Likewise, strong technical and vocational education programs will encourage students to participate in many enhanced programs offered at junior colleges and proprietary schools. It is necessary for students to become computer literate and concentrate on performance skills offered by our important trades. Vocational and technical education gives them the opportunity to receive introductory training in technical skills so that they can compete successfully in the marketplace.

The need for a competent and highly trained work force is obvious. Our proprietary schools can play a vital role in preparing a skilled work force. We must continue Federal support for vocational and technical education programs and emphasize their importance to the economic development of our Nation.

The time has come for us to stress occupational education, which prepares young people and adults for the job market. Congress has an opportunity to continue and build upon the Federal investment in vocational and technical education as a means of promoting citizen's wage-earning ability.

For some time, we have been addressing the problems of student loans and other Federal financial assistance programs, but not usually from the student's vantage point. For example, there was a provision in the new Federal jobless benefits law requiring students 21 or older with bad credit ratings to have cosigners in order to obtain guaranteed student loans. Many of our trade school officials feel that this type of provision will prevent people who need loans the most from receiving them. These trade schools and proprietary schools educate students who may not have clean credit records.

In these tough days of economic recession, even fewer of these students enjoy perfect credit ratings. One of the reasons we guarantee the loan is to help those who have been unemployed or on welfare and want the opportunity to get further education and job training to improve their income levels.

There are numerous proprietary schools around the Nation, some of which have been in existence for over 50 years, with higher career field job placement rates than many of our traditional postsecondary educational institutions. For example, Alabama's Riley College has an overall career field placement rate of 81 percent, even with the high levels of unemployment that we have at the moment. In many cases, these students have left the welfare and ADC rolls behind, regained their pride, and started making valuable contributions to society. This, after all, is what the thrust of career educational skill training is all about.

We must realize the devastating impact that removing Pell grant eligibility from these students would have, not only on the proprietary school industry but on the lives of instructors, administrative personnel, and, most importantly, on the lives of the students that have been successfully served by these institutions for 55 years. In most cases, the proprietary school is the last, best hope for these citizens to enjoy a successful, fulfilling life.

I would like to share with my colleagues the illuminating story of a young unemployed woman who got a job at a manufacturing company in Alabama. Later, she decided to leave the job to pursue formal occupational training. This young lady, 32 years old and a single mother of two, enrolled at Riley College. Twenty-six weeks later, after graduating with a 95 average, she began a new career as a computer clerk. Now, she is employed at H&R Block as a data entry clerk, and is

much better prepared to support her children as a result of her training.

Schools like Riley College, ones that have a track record of providing needed training for students, should not be placed at a disadvantage through ill-advised laws adopted by the Congress pertaining to student financial assistance.

These proprietary institutions provide instructors with actual experience in their areas of specialty. They receive excellent training, similar to that in the work place, enabling students who participate to get a start in a career in our highly competitive market. These training programs provide many with a needed advantage—not just individuals, but the businesses that employ them. In this way, these programs are investments that benefit our society as a whole. I have long believed that vocational and training educational programs provide a vital service to our country.

Mr. President, higher education is one of the cornerstones of American democracy. We are constantly striving to restore our schools to their rightful position of prominence among America's greatest institutions. Our educators are laying the groundwork for our future leaders.

Mr. President, this quest for excellence begins in the classroom, but must eventually proceed to the workplace. Federal educational assistance provides the vital training for a journey from unemployment to productivity for millions.

#### DR. LARRY MCCOY AND SHOALS COMMUNITY COLLEGE

Mr. HEFLIN. Mr. President, today, I wish to congratulate and commend Dr. Larry McCoy, president of the Shoals Community College, for his outstanding work in making the institution a comprehensive academic and technical training facility. Dr. McCoy truly deserves the accolades he is currently enjoying from the area's educational, political, and civic leaders for his achievements at the school, whose main campus is located in Muscle Shoals, AL, near my hometown of Tuscumbia.

Those accolades include the recent dedication of Shoals Community College's new learning resources center, named in Dr. McCoy's honor. The new learning center has been described as part of the vision that Dr. McCoy and other college officials have for the school and its students. As dean of instruction, Dr. Randy Parker said, "It is a vision that started locally with the community. It is a vision to have the very best for our community and to take the high road, the road less traveled \* \* \* a vision that has been presented, seen, and lived daily by our president."

The newly dedicated center includes a library, computer classrooms, and a

parking lot with additional lighting. It will be used primarily to train students seeking a degree in a technical field. Future projects for Shoals include a mathematics and science classroom building, a fine arts building, an auxiliary gymnasium, physical education instructional programs, a hospitality house to be used by the continuing education department, and a music building at its Tusculumbia campus.

Shoals Community College stands as a shining example of an institution on the move. Thanks to the dynamic and innovative guidance of its president, Dr. Larry McCoy, Shoals has positioned itself at the forefront in offering quality programs in general education and career development to the citizens of this vibrant and fast-growing area.

#### TRIBUTE TO ISRAELI PRIME MINISTER MENACHEM BEGIN

Mr. GRASSLEY. Mr. President, Israel lost one of its founding fathers this week. Menachem Begin helped create the State of Israel and served as one of its Prime Ministers.

I had four or five opportunities to be involved in group discussions with Prime Minister Begin. But on only one of these was I able to intimately discuss things with Begin other than United States-Israel relations. This opportunity came in August 1981, in his office in Jerusalem. I did not keep a record of the discussion. But yet, 11 years later, I have a recollection of a deeply religious person, love of family, especially his wife, respect for the Sabbath, and reference to regular study of the Scriptures and time with family preparing for the Sabbath. I pray that every political leader of every nation would be so devoted to God, family, and country. What a peaceful world we would have.

He had an extraordinary life, one begun in hardship and suffering. He survived the Holocaust, although his parents and siblings did not. He endured a Soviet concentration camp during World War II. And he made his way to Palestine to help build a Jewish homeland.

In the prestate years, he fought British rule and Arab rebellion. The British viewed him as a terrorist. There was a \$10,000 bounty on his head. But he survived to become one of Israel's foremost political leaders.

For the first 26 years, he was the head of the opposition party, but in 1977 the Likud Party swept into power and Begin became Prime Minister.

It was as Prime Minister that he achieved what most thought was impossible—peace between Israel and her biggest enemy, Egypt. Begin and Sadat shared courage and vision to lead their nations to peace.

The Camp David treaty was and continues to be a remarkable accomplishment. Israel returned an enormous

land mass to Egypt, the Sinai Peninsula, with its valuable oil reserves and strategic air bases, as well as Israeli settlements. The world can never forget Begin's order to Israeli soldiers to remove Jewish citizens from the Sinai town of Yamit. In exchange, Israel got peace and a secure border.

Menachem Begin's life was devoted to his nation and his people. His memory should serve as inspiration as we continue the current peace process.

That peace process is no less historic or significant than the Camp David accords. Israel is engaged in discussions with her neighbors, Lebanon, Syria, and Jordan, as well as the Palestinian people who reside in the West Bank and Gaza, territories administered by Israel since 1967.

The parties are to be commended for their perseverance, despite their wide differences. The road to peace will be difficult, marked with many obstacles. And no one should think that the United States is capable of imposing a solution on the region, or delivering one of the parties to the other.

Peace must be made on terms acceptable to the parties. That's the way Begin and Sadat made peace. The United States didn't force concessions out of one side then, and the United States won't extract them now. So no one should be fooling themselves in this regard. The parties have to do the hard bargaining.

I would like to place in the RECORD an ad that recently appeared in some newspapers and magazines which reflects the correct approach to the peace process, and U.S. interests in the region. The ad is signed by a wide range of former policymakers who are committed to a genuine and enduring peace in the Middle East.

Mr. President, I started with a tribute to Menachem Begin, a man who led his country to a historic peace treaty. He possessed a devout nationalism and a firm belief in the survival of the Jewish people. He did not yield and he did not compromise his values. Understanding Begin should help us appreciate the difficult road to genuine peace between Israel and her neighbors.

I have no doubt Menachem Begin will be missed by all peace-loving people.

I ask that a statement by the Committee on U.S. Interests in the Middle East be printed in the RECORD.

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

#### COMMITTEE ON U.S. INTERESTS IN THE MIDDLE EAST

The undersigned believe that the essence of U.S. national security policy should be the protection and expansion of the community of nations that: (1) Safeguard the personal and property rights of their citizens, (2) Limit their own governments' powers within the rule of law, (3) Respect the rights of other nations and (4) Otherwise apply to themselves the standards of democracy that are the pride, but not the exclusive province,

of Western civilization. In support of these objectives, we have joined together to form the Committee on U.S. Interests in the Middle East. We advocate support for a U.S. policy toward Israel that would—in contrast to current American policy—reflect the traditional, strong American support for the legitimacy, security and general well-being of the Jewish State: a proven, valuable, democratic friend and ally of the United States.

#### PRAGMATIC AND MORAL CONSIDERATIONS ARGUE FOR STRONG UNITED STATES-ISRAELI TIES

We reject the notion of moral equivalency that underlies current U.S. policy toward Israel and her Arab enemies. It is as inappropriate here as American "even-handedness" would have been between Iraq and Kuwait after Saddam's invasion. The target of aggressive designs is not equivalent to the aggressor.

Communism's demise should teach us that a moral compass is one of the most important, practical tools of U.S. foreign policy. American support for freedom, democracy and Western values over totalitarianism, tyranny and anti-Western ideologies should be the rule for U.S. policy, including the Middle East. As friendly as the United States is with many Arab states, when it comes to the Arab-Israeli conflict, the United States must be squarely on the side of the Israelis.

Commitment to the right of the Jewish people to a state in their ancient homeland—support for Zionism as the legitimate Jewish national liberation movement—has been American policy since World War I. While Arab powers have always rejected this view—opposing it through rioting, terrorism, war and diplomacy—the United States has always opposed their rejectionism. It should continue to do so today, and not deal "even-handedly" between Israel and its enemies.

#### FOCUS ON MAXIMIZING ISRAEL'S SECURITY—NOT TERRITORIAL CONCESSIONS

There can be true peace—as opposed to a simple balance of forces—only if neither side to the conflict intends harm to the other. This would require Arab rejectionists to change their minds fundamentally with regard to the right of the Jews to a state in Palestine. Undoubtedly, there are individual Arabs willing to make peace with Israel; unfortunately, they are not in charge in the Arab states and groups with whom Israel is now being asked to negotiate. Israel cannot simply assume that its long-time, bitter enemies have had a change of heart under present circumstances, when there is so much evidence to the contrary and when the costs of being wrong may be fatal to the Jewish State. No American leader should subject Israel to untoward security risks.

Hence the proper aim of the current negotiations should be establishing whether the Arab powers intend peace and, if so, what they can do to demonstrate their intent. This means not just issuing set-piece invocations involving the word "peace" and demands for militarily significant territorial concessions from Israel. To be constructive, the current talks should focus on the essence of the conflict: recognition of Israel's legitimacy—not on undermining Israel's security. Were Arab governments to concentrate on shoring up Israel's legitimacy with their publics, abandoning policies of belligerency and ceasing (at least for the time being) to press territorial demands that would increase Israel's military vulnerability, they would maximize the chances for peace. In this regard, American officials should not make the dangerous error of underestimating Israel's view of the strategic importance of the West Bank, Gaza

and the Golan Heights under present and foreseeable circumstances. It puts wholly unwarranted faith in international law to expect that arms control agreements within peace treaties can ensure that these territories would continue to serve their defensive purposes if Israel were to relinquish control to another state.

What ultimately happens to the sovereignty over these disputed territories once there is a well-established, secure and workable peace is a matter the parties should sort out among themselves. It should not now be a preoccupation of the United States. Until then, moreover, America should not engage in pressure diplomacy against Israel that may bring on the war we are hoping to prevent. This applies in particular to efforts to foist on Israel territorial concessions that would, if accepted by the Israelis, create de facto—if not de jure—American security obligations that we are simply in no position to fulfill. It would be unwise for the United States to take a country (Israel) now in a position to defend itself and even to help us in certain regional contingencies and turn it into a state that relies on U.S. forces for its defense, something Israel has strenuously and properly resisted.

Michael Barnes, Former Member of Congress (D-MD).

William Bennett, Former Secretary of Education; former Director, Office of National Drug Control Policy.

William Brodhead, Former Member of Congress (D-MI).

Tony Coelho, Former Member of Congress (D-CA).

Jim Courter, Former Member of Congress (R-NJ).

Stuart Eizenstat, Former Assistant to the President.

Leonard Garment, Former Counsel to the President.

William Graham, Former Science Advisor to the President; former Chairman, President's General Advisory Committee on Arms Control.

George A. Keyworth II, Former Science Advisor to the President.

John F. Lehman, Jr., Former Secretary of the Navy.

Elliott Abrams, Former Assistant Secretary of State.

Morris Amitay, Former Foreign Service Officer.

Robert Andrews, Former National Intelligence Officer, CIA.

Stephen D. Bryen, Former Deputy Under Secretary of Defense.

Linda Chavez, Former Director, White House Public Liaison.

Kenneth DeGraffenreid, Former Special Assistant to the President.

Charles Fairbanks, Jr., Former Deputy Assistant Secretary of State.

Douglas J. Feith, Former Deputy Assistant Secretary of Defense.

Frank J. Gaffney, Jr., Former Deputy Assistant Secretary of Defense.

Margaret Graham, Former Special Assistant to the Legal Advisory, Dept. of State.

James T. Hackett, Former Acting Dir., Arms Control and Disarmament Agency.

Alan Keyes, Former Assistant Secretary of State.

Charles Kupperman, Former Special Assistant to the President.

Michael Novak, Former U.S. Amb. to the U.N. Human Rights Commission.

Myer Rashish, Former Under Secretary of State.

Eugene V. Rostow, Former Director, Arms Control and Disarmament Agency; former Under Secretary of State.

William Schneider, Former Under Sec. of State; former Associate Dir., OMB.

Bernard A. Schriever, General, USAF (ret.), Former Commander, Air Force Systems Command.

Donn A. Starry, General, USAF (ret.), Former Commander, Readiness Command.

Faith Whittlesey, Former U.S. Ambassador to Switzerland; former member, senior White House staff.

Richard S. Williamson, Former Assistant to the President; former Asst. Sec. of State.

Sinclair Melner, Lt. General, USA (ret.), Former Deputy Chairman, NATO Military Committee.

Michael Mobbs, Former Asst. Dir., Arms Control and Disarmament Agency.

William Murphy, Former Director of Research, Radio Free Europe.

Richard Perle, Former Assistant Secretary of Defense.

Bruce Porter, Former Executive Director, Board for International Broadcasting.

Roger W. Robinson, Jr., Former Senior Director, National Security Council.

Robert F. Shultz, Vice Admiral, USN (ret.), Former Deputy Commander, U.S. Naval Forces, Europe.

William Van Cleave, Former Chairman, President's General Advisory Committee on Arms Control.

Dov Zakheim, Former Deputy Under Secretary of Defense.

#### AN INDEPENDENT QUEBEC?

Mr. PELL. Mr. President, the February issue of the "National Security Law Report" of the American Bar Association contains an article entitled, "An Independent Quebec?" In it the author Dwight Mason, a retired American diplomat and a former congressional fellow in my office, points out that important events are unfolding in Canada—that there is likely to be a devolution of some powers from the central government to the Provinces and that Quebec may decide to leave Canada. Matters are moving quickly. The Mulroney government plans to submit its proposals for new constitutional arrangements in mid-April, and Quebec is now scheduled to hold a referendum on its relationship with the rest of Canada by October 26, 1992.

Mr. Mason notes that while an independent Quebec is a practical possibility—by itself Quebec would rank among the world's top 20 economies—it would probably be costly for both Canada and Quebec and would affect American interests in that our vast relationship with Canada would have to be reworked.

What Canadians do with their polity and economy is their business. We certainly have no intention of interfering in that process. And we certainly would want close and friendly relations with Canada and with Quebec if that province were to become independent. What happens in Canada is important. We should watch developments there closely and sympathetically. After all many Americans have Canadian friends and relatives, and Canada is our most important trading partner, a member of the Group of Seven, of NATO and our partner in continental air defense.

Mr. President, I ask unanimous consent that the full text of Mr. Mason's article appear at this point in the RECORD.

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

[National Security Law Report, February 1992]

#### AN INDEPENDENT QUEBEC?

(By Dwight N. Mason)

Canadians are seriously examining their future as a country. It is likely that the existing distribution of powers between the provinces and the central government will change in the direction of devolution toward the provinces. Quebec may well become independent.

After the conquest of Quebec by Britain in the 18th century, Britain allowed the French inhabitants of Quebec to retain their language and Roman Catholic religion—in effect, their identity as a distinct society. French Quebecers have successfully maintained their language and their cultural distinctiveness to this day, and they are proud of this achievement. Their wish to do so in the future is the fundamental source of Quebec's drive for a different, more autonomous and perhaps independent relationship to the rest of Canada. There is a very strong consensus in Quebec on this principle.

The current crisis over Quebec's relationship to the rest of Canada is different and more serious than past ones. This is true for two reasons: first, independence is a practical possibility, and second, the rest of Canada is now willing to contemplate a future without Quebec.

An independent Quebec is a practical proposition. Quebec's population exceeds 6 million; it is increasingly well educated; and its business class is formidably entrepreneurial. Quebec's gross domestic product is about \$140 billion, ranking Quebec among the world's top twenty economies. The value of its trade with the U.S. is about the same value as our trade with France. Current U.S. direct investment in Quebec is about \$10 billion. Quebec is a key supplier of hydro-electric power to New England and New York. It is the home of world class companies, one of which may build Texas' high-speed rail system. Its government is competent and lives by free-market principles. Quebec's is one of the few governments that has conceived and successfully implemented a comprehensive economic and industrial development policy. Quebec would be well able to manage independence.

Now, for the first time, the rest of Canada is willing seriously to consider the idea of a Canada without Quebec. The origins of this new attitude are two: first, the traditional model of Canada as a country of two founding peoples is breaking down. The model was accurate in the 18th and 19th centuries but is no longer. Now about one-third of Canadians have neither French nor English immigrant backgrounds. Thus many citizens—particularly in the increasingly important prairie and western provinces—no longer see the country through the prism of Canada's origins.

Second, the issue of Quebec's place in Canada and of Quebecers' claims for unique status seems less and less important and legitimate to more and more Canadians. Indeed, last year a majority study by a Canadian commission to which more than 350,000 Canadians contributed their opinions—the Citizens' Forum on Canada's Future—discovered that Canadians outside Quebec are not will-

ing to agree to compromising provincial and individual equality if that is what it takes to keep Quebec in the Confederation. Furthermore Canada's native peoples have now become deeply engaged in this debate, and they have made it clear that they will not accept an outcome that ignores their interests and aspirations for some form of self-government.

Whether or not independence for Quebec would be a good thing is another matter and depends upon one's point of view. From our perspective, it would create a more complicated but still manageable relationship with our northern neighbors. How it would affect Canada is unclear, although there would be economic and political costs for Quebec and the rest of the country. It seems doubtful, however, that independence for Quebec would result in a breakup of the rest of the country or in attempts by some provinces to join the U.S. As the Citizens' Forum reported, "Outside Quebec, the vast majority of citizens . . . believe in a strong central government that can act with resolution to remedy the country's ills, unify its citizens and reduce division and discord among groups and regions. This is not to say that they don't also have an attachment to their provinces and regions, only that their attachment to Canada is stronger."

The critical period in this crisis is approaching. The Mulroney Government will make its constitutional proposals in mid-April. This will lead to a period of further debate. The tone of that debate could be decisive for Quebecers who are now scheduled to vote on their province's political future in a referendum this fall.

#### TRIBUTE TO MRS. WILLIE JEAN WILSON

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding American, Mrs. Willie Jean Wilson, who passed away January 29, 1992.

Mrs. Wilson was born on April 12, 1911, the daughter of the late William and Hettie Hodges. Before meeting her husband, Mrs. Wilson taught school and worked in the Bell County Courthouse. She was married in 1934 to Jimmy Wilson, a prominent attorney in Bell County.

Mrs. Wilson gained respect in Pineville by offering her time and services to its citizens. She taught Sunday school and was very active in the First Christian Church of Pineville. Mrs. Wilson also worked with the local Girl Scout troop, and was a hardworking homemaker and outstanding cook.

Mr. and Mrs. Wilson traveled the world. They visited Europe, Africa, Turkey, Greece, Mexico, and the Orient.

Mrs. Wilson was a well-read individual. This was evident in the ways she communicated with her family, friends, and strangers. Mrs. Wilson was also known for her manners, and southern hospitality.

Mrs. Wilson was a true lady, and I commend her for her values and principles.

#### TRIBUTE TO CONGRESSMAN BILL DICKINSON

Mr. HEFLIN. Mr. President, on Monday, March 9, Alabama Congressman BILL DICKINSON, the long-time voice of the State's Second Congressional District, announced his retirement after 28 years of continuous service. The Congressman's southeast district, which includes the State capital of Montgomery, is home to three of Alabama's major military installations—Maxwell Air Force Base, Gunter Air Force Base, and Fort Rucker. Bill Dickinson's superb record of leadership on behalf of both his district's needs and this Nation's important defense readiness is one in which the good people of this area can take great pride.

WILLIAM L. "BILL" DICKINSON was first elected to Congress in 1964, during the so-called Goldwater Sweep, when many Alabama voters supported Republican Barry Goldwater. Prior to his election, the Opelika native had established a private law practice and served as a judge of the city court, the court of common pleas, the juvenile court of Lee County, and of the Alabama Fifth Judicial Circuit. Bill is also a former vice president of Southern Railway in Montgomery and a Navy veteran of World War II.

As ranking Republican on the House Armed Services Committee, BILL DICKINSON, among Congress' most prominent cold war warriors, was one of the chief architects of the defense buildup that made our twin victories in the cold war and Persian Gulf war possible. He wielded an enormous amount of influence over the committee in the early 1980's, pushing hard for funding of the strategic defense initiative, the MX missile system, and many other high-tech weapons systems. Throughout his many years in Congress, BILL exercised great responsibility and true leadership in shaping national defense policy. He was even chosen by President Bush to be his personal representative at the Paris International Air Show in 1989. The Reserve Officers Association of the United States presented BILL with their most prestigious award, "Minute-man of the Year."

As supportive of this Nation's defense efforts as BILL DICKINSON has been, the Congressman has never been just a rubberstamp for either the Pentagon or the Republican administrations. The best interests of his Alabama district were always paramount in any decision BILL made or in any vote he cast on the House floor. His impressive list of accomplishments includes seeing aviation become a full-fledged branch of the Army and Fort Rucker becoming the permanent home of Army Aviation; getting the Nation's eighth Trident submarine named after Alabama; transforming Gunter Air Force Station in Montgomery into an Air Force base; securing authorization for military aircraft to fly civilian traffic and accident

victims to hospitals; and helping to establish an Air Force School of Law at Maxwell Air Force Base in Montgomery and the Senior NCO Academy at Gunter.

Mr. President, BILL DICKINSON can be justly proud of his many years of excellent service in Congress on behalf of his Second District and, indeed, the entire Nation. The Alabama delegation will miss its senior Member's candor, tenacity, humor, and, most of all, his commonsense approach to national leadership. His constituents will miss him just as one misses an old familiar friend, for they have had one for many years in their Congressman, BILL DICKINSON.

I proudly commend and congratulate BILL on his life of exemplary public service, and wish him and his wife Barbara all the best as they return to Alabama next year.

#### TRIBUTE TO SENATOR S.I. HAYAKAWA

Mr. HEFLIN. Mr. President, I wish to extend my sincere condolences to the family of our former colleague Samuel Ichiye Hayakawa, who died on Thursday, February 27. I came to the Senate just 2 years after S.I., and remember him as a colorful and fiercely independent defender of ideals he deeply believed in. We all knew him as a master of the English language and unorthodox scholar of the first order.

Although Senator Hayakawa was best known for his words, his actions did not by any means go unnoticed. He came to prominence as president of San Francisco State University in 1968 during the turbulent student demonstrations there. Dubbed "Samurai Sam" when he wrestled a loudspeaker from protesters, his penchant for wearing multicolored tam-o'-shanters became his trademark.

I only served with S.I. for 4 short years, but in that time grew to regard him as a principled representative of his State's divergent interests. His service here livened up our proceedings in a unique way that hasn't been matched since.

I wish all the best for S.I.'s wife, Margedant, and their three children. I thank the Chair.

#### IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the Congress stood at \$3,848,674,554,294.26 as of the close of business on March 11, 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 last fiscal year, it cost the American taxpayers \$286,022,000,000 just to pay the interest on spending ap-

proved 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?

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### TAX FAIRNESS AND ECONOMIC GROWTH ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 4210 which the clerk will report.

The legislative clerk read as follows:

A 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.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Arizona [Mr. McCAIN].

#### AMENDMENT NO. 1722

(Purpose: To require a 60-vote Supermajority in the Senate to pass any bill increasing taxes)

Mr. McCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1722.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following section:

#### SEC. . TAX FAIRNESS AND ACCOUNTABILITY.

(a) SUPERMAJORITY REQUIREMENT IN THE SENATE.—In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974 STRIKING 60-VOTE REQUIREMENT FOR REVENUE REDUCTION.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a de-

duction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; Provided however, that a bill, resolution or amendment that reduces the tax for Social Security may only be considered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

Mr. McCAIN. Mr. President, let me begin by saying that I am aware that the amendment that I am about to propose is not a popular one in some areas.

I am keenly aware that some of the things that I will be talking about that has brought us to the present situation of the outrageous deficit and out-of-control spending that has become the trademark of Congress will not endear me to some of my colleagues.

I also am aware that my sponsoring of this amendment is doomed to failure, that we will not win this vote. But I also think that it is important—and I think it is important—Mr. President, because the American people as we know are dissatisfied in overwhelming numbers with the performance of the Congress of the United States.

Last week, there was a CBS-New York Times poll which gave Congress the lowest approval rating at any time in recent history since polls have been taken.

To be blunt, Mr. President, the American people have lost confidence in their elected representatives and in their ability to conduct their financial business and fiscal affairs in a responsible and mature fashion.

A \$4 trillion deficit, a \$400 billion deficit this year, and out-of-control spending practices results.

I think that it is very important that the Members of this body understand that I will continue to pursue this effort to reverse one of the most egregious and outrageous provisions of the 1990 budget summit agreement, and that provision is that it now requires 60 votes in this body in order to lower the taxes of the American people. These same American people who are carrying a higher tax burden, a higher tax burden than at any time in this Nation's history since World War II. And at the same time it requires only 51 votes in this body to raise the American people's taxes, something we have done with alacrity and abandoned to a degree which has now made every working man and woman in America last year work until May 8 paying off their State, Federal, and local taxes before a penny that they earned could go for themselves, their family, their education, their health, and all of the things that they need to use their salaries for in order to better their existence.

Mr. President, I hope my colleagues do not underestimate the anger, the dissatisfaction that exists amongst the American people about the tax burden that they are shouldering. Of course, I am doubly disappointed that last night that we could not give a small tax

break to the neediest of Americans, our Native Americans.

But, in my view, unless we turn this Congress around and stop increasing the tax burden on the American people, we are going to cause an economic collapse in this Nation of unprecedented proportions. And, Mr. President, we cannot spend 13 cents out of every tax dollar to pay the interest on the national debt. It is an unacceptable situation when next year we are going to spend more money on paying the interest on the national debt than we are on national defense.

This situation is not tolerable, and when we institutionalize a system which makes it attractive and easy to raise the American people's taxes and incredibly difficult to lower them, then that situation must be reversed.

Mr. President, this amendment is simple: It repeals the provision in the 1990 budget deal that requires a 60-vote supermajority for taxes. It replaces that provision with a new supermajority requirement of 60 votes for the creation of new taxes or increase in existing taxes. A 51-vote simple majority will be required for tax cuts.

Let me emphasize, Mr. President, it continues to provide firewall protection for the Social Security trust fund. The Social Security tax cut would require a 60-vote supermajority. This amendment would protect the integrity of the Social Security trust fund from unwarranted raids that would adversely affect the long-term actuarially soundness of the fund. Finally, it requires a 60-vote supermajority to repeal any provision of this amendment.

Mr. President, let me talk for a few minutes about how we got where we are, the so-called budget summit agreement of 1990. I am very pleased, frankly, that the President of the United States has stated publicly that it was a mistake. I just wish that he had said it in more strong and powerful terms.

At the time, there were some of us, obviously a minority, who realized what a terrible thing and terrible outrage was perpetrated on the American people. An issue brief from the Tax Foundation, I will quote from, is by Mr. Paul Merski. He says, put simply, the budget deal of the century was not a good deal for the American taxpayer because it perpetuated the vicious cycle—higher expenditures, taxes, and debt on interests cost.

A fascinating thing about this so-called budget summit agreement as with every other budget summit agreement, there was wild miscalculation as to the size of the deficit. The original estimate of the deficit, as a result of the 1990 budget summit agreement for 1992, was \$280.9 billion. Later, we discovered that it might be as high as \$348 billion. Now we know that it is roughly \$400 billion.

Mr. President, it is beyond my wildest imagination that such an in-

credible miscalculation can be made and, in my view, very frankly, somebody should be held accountable.

The latest Office of Management and Budget figures show that the cumulative deficit for fiscal years 1991 to 1995 will be \$555 billion higher than promised a year before. The failure is largely due to the absence in that budget agreement that will restrain the largest and fastest growing components of the Federal budget. There is no hope of reducing the deficit as long as there are not the checks that are necessary.

The failure of that budget deal to control the spendthrift ways comes as no surprise to experienced observers of budget deals in 1982, 1984, 1985, 1987, and 1989. All fell far short of their stated goals. The deal of 1990 may be a different approach but its results have been the same: higher taxes, higher spending, and higher deficits.

Mr. President, the Defense Department will be considering next year base closures. I would hope that Andrews Air Force Base might be one of those considered so we cannot send a bunch of people out there and get together in a smoke-filled room and come up with an agreement such as this.

Ironically, the fiscal years not preceded by budget summits actually proposed the most real deficit reduction. In 1984, a year in which there was not a budget summit agreement, the deficit dropped \$23 billion when spending growth was held to 5.4 percent—half the rate of revenue growth in fiscal year 1987 and spending rose only 1.4 percent enabling the budget deficit to fall a record of \$71.5 billion.

Each budget summit had its own dynamics. Three reasons for their poor performance emerge. When the deficit reduction gets tougher, it is tougher to change the rules. Frustration with persistent budget deficit has broken the back of the original Gramm-Rudman-Hollings law that promised a balanced budget by 1991. But when the time came for the promised spending cut, lawmakers avoided tougher choices by raising taxes, rewriting Gramm-Rudman-Hollings, and promising a balanced budget 2 years down the road. In 1993, under Gramm-Rudman-Hollings II, when the bites in Gramm-Rudman-Hollings would have forced spending restraint, that was time to rewrite the rules again. And the promised balanced budget was pushed back to 1996. Tax increases which take effect immediately are pared with pledged spending reductions in future years.

This seems to be the MO lately of the budget summits. Every deal included significant tax increases and last falls \$164 billion in additional revenues over 5 years was the second largest tax increase in history. This was balanced with large amounts of projected Government scrimping and saving but unlike new taxes which are collected as

soon as they are enacted long-term spending cuts demand constant discipline and that has not happened over the past decade.

The only spending cuts that can be counted on are cuts in the current fiscal years not promised future cuts from built-in spending increases.

Finally, Government spending has outpaced both revenues and inflation. Between fiscal year 1981 and fiscal year 1991 revenues have grown at a hefty 78.3 percent but spending levels doubled rising 22 percent points faster than revenues, spending growth averages 7.9 percent annually a full 3.2 percentage points higher than needed to keep pace with the decade, a 4.7-percent average inflation rate.

Clearly, the deficit cannot be reduced if spending is allowed to outpace the growth in revenues and inflation.

Finally, Mr. President, only 10 of the last 63 budgets have paid their own way without deficit spending. It has been 23 years since the last balanced budget. As the vicious cycle of higher spending higher tax and deficit leads to higher debt and higher interest rates costs, the American taxpayer can only look back ruefully at the \$164 billion budget deal of the century.

Mr. President, this amendment was proposed in the other body which refused to even debate it publicly. The companion legislation from the other body was introduced by Congressman SAXTON of New Jersey and failed on a party line vote of 6 to 4 before the Rules Committee on February 25. We have a process in place, thanks to this budget summit agreement that requires 60 votes in the Senate, to cut taxes while requiring 51 votes to raise taxes.

The conference report that accompanied the 1990 budget deal explains the provision that makes it easier for the Congress to raise taxes than to cut taxes. It states:

Similarly the concurrent resolution on the budget sets a revenue floor and a point of order requiring 60 votes to waiver in the Senate and a simple majority to waiver in the House lies against any tax cutting legislation that would cause revenue to fall below the floor in the resolution.

Interestingly enough, this amendment will be challenged on that basis, and it will require 60 votes in order for this amendment to pass.

To those who live outside the beltway that is a fancy and disingenuous way to make it easier for the Congress to raise taxes on working Americans.

As I mentioned earlier, Mr. President, Americans last year worked until May 8 just to pay their taxes, and it will probably take an additional day or two or three this year. And I predict, Mr. President, on April 15, when the American people are required to file their income tax returns, I can say to you "You ain't seen nothing yet" when the American people see the incredible

tax burden that has been levied upon them and is increasing year by year. We are going to hear from the American people—and we deserve to do so—because they are now carrying a higher tax burden than at any time since World War II, a time of grave national emergency.

Some, who are married to the budget summit agreement, may assert this agreement is crucial in preventing the increase in the deficit. The provision is neither crucial nor has it helped control the deficit. Tax cuts do not cause deficits, spending does.

For instance, it has been asserted in this body and the media that the Reagan tax cuts were the cause of and substantially add to the deficit. I do not think that is the case. What was the cause of the deficit is out-of-control spending.

Federal tax receipts increased after the Reagan tax cuts were fully implemented in 1984.

In 1984, Government receipts were \$666.5 billion. In 1985, receipts totaled \$734.1 billion. In 1986, they totaled \$769.1 billion. By 1990, receipts totaled \$1,031.3 billion. After the tax cuts were fully phased in, there was not a single year in which Federal receipts declined.

The tax cuts did not cause the explosion in debt. They triggered the largest peacetime economic expansion in history.

Thus, tax rates went down, receipts went up, the GNP grew, and the misery index plummeted. It should be clear by now that runaway spending is the cause of the burgeoning deficit.

I will remind Members of the distinguished President pro tempore's eloquent discourse on Anglo-American political history during the debate on the line item veto a few weeks ago. In particular, I would like to emphasize his comments on the Congress' power of the purse. He states:

The power of the purse is the tap root of the tree of Anglo-American liberty. \* \* \* It is not a power that should be shared by kings or presidents.

Congress' control over the purse has led to huge deficits. Irresponsible and reckless spending has left the Nation and future generations buried in debt.

I remind by colleagues again and again, there is now a \$13,000 debt to be shouldered by every man, woman, and child in America. Frankly, Mr. President, that is an outrageous thing to do to the men and women in America, and we have to stop it.

While all spending bills have the President's signature, the annual deficits have Congress's fingerprints all over them. How many times were Presidents Reagan and Bush threatened with the choice of huge spending and tax increases or shutting the Government down?

It is not correct to state that tax cuts are the cause of the deficit. This

fact brings into question the effectiveness of the provision I am amending. The fact is that last year taxes were increased, and the deficit will increase by perhaps as much as \$150 billion as we all know to a total of over \$400 billion.

Tax increases do not fund deficit reduction. They mask enormous spending increases that add to the deficit.

Federal spending increased by 12.6 percent alone in 1991.

The provision of the 1990 Budget Act that I am proposing to amend is antieconomic growth, prodeficit spending, and an abuse of the taxpayer. This provision in the 1990 budget deal only provides and institutional bias for more taxes, more spending, and more deficits.

Recent budgetary history validates my claim—tax increases are the route to fiscal dissolution.

If Congress wants to be fair to the taxpayer, it can vote in favor of this amendment, and protect the taxpayer from further tax increases, spending increases, and deficit increases.

Mr. President, I would now like to discuss the dynamics of Federal deficits. It will more clearly link tax increases to deficit increases.

Since 1983, as I mentioned earlier, there have been six budget summits. These summits were held to develop legislation to reduce the deficit. In five of these summits, tax increases lead to larger deficits. In 2 nonsummit years, taxes were not increased and the deficit fell.

Please, please, please, spare us another budget summit. We are all aware of what we are going through right now; and that is that we will pass a bill today or sometime next week, depending on how the process develops, and the President will veto this bill and the President's veto will be sustained.

At some point, there will be a movement, there will be some desire here on the part of Members of this body and the other body, to get together and have another budget summit agreement.

Please spare us from that this time. Please spare the American taxpayers, because in five of the last six summit agreements tax increases and ever increasing deficits have been the result.

And, I might add, that the 1990 budget deal was the worst of all these deals. It raised taxes by \$166 billion over 5 years. It placed caps on discretionary spending after providing for generous increases. And, it promised \$500 billion in deficit reduction.

Well, 2 years later the deficit is ballooning wildly out of control, we are again considering raising taxes by \$57 billion, and we are mired in a prolonged recession.

If tax increases were the answer to our deficit problems, all the Congress would have to do is convene another summit at Andrews Air Force Base, a fate I do not wish on the American people.

To emphasize again, in five out of six of these summits, taxes went up, spending went up, and the deficit spiraled further out of control. If these tax increases went toward deficit reduction, why did the deficit dramatically increase instead of decreasing? Because tax increases only financed bigger deficits. The new tax dollars did not go toward deficit reduction. The fact that tax increases increase the deficit is the strongest argument in favor of my amendment which will make it more difficult to increase taxes and hence the deficit.

Furthermore, whenever the Federal tax bite surpasses 20 percent of GNP in peacetime, we have found ourselves in recession. In 1990 when 21.5 percent of GNP was consumed by Federal taxation, Congress decided that a budget deal including a 5-year tax increase was the answer to our economic problems. Is it any wonder that we have been in a slow-growth/recessionary period since?

Congress is the only body that believes that a \$57 billion tax increase is the cure to our economic problems. With the focus off tax increases, the sun will shine on the real problem in Washington—runaway spending. Federal spending consumed 27 percent of GNP in 1990. If the flow of funds from taxpayers to big spenders in Washington is stopped, there will be no more tax increases to hide spending increases from the public.

Mr. President, I spent a lot of time a couple of weeks ago on the issue of the line-item veto and what we have done in the area of spending. And I focused my attention on the Defense appropriations bill, where we, in an incredible fashion, voted out a Defense appropriations bill attached to which was \$6.3 billion of totally unnecessary and wasteful spending: \$50 million for truck engines that the Pentagon can never use; \$110 million a year earmarked for universities; \$10 million earmarked for a college—that was over one-third of its budget to study stress on the military; a \$50-million bailout for a shipbuilding company.

At the same time, at the very same time, we are telling thousands—tens of thousands—of young men and women in the military that they have to leave because we cannot afford to keep them. If that \$6.3 billion of pork that we had appropriated had been spent on the men and women in the military, we would not be forcing men and women out of the military today.

If the false focus on tax fairness and tax increases ends, we can begin discussing the real issue of spending, deficits, and debts. Tax fairness is a mirage that rationalizes tax increases and obscures the real issue of debt fairness. Mr. President, who will pay for the extravagance of the Congress? Who is going to pay for the trillions of dollars of debt?

I fear that our children and even our children's children will finance congressional extravagance. Congress has presided over the largest intergenerational transfer of wealth in the history of the Nation.

But, when you rob those who cannot vote, what difference does it make?

I think this situation underlies much of the public's disgust with Congress. The inability to responsibly budget, and repeatedly raising taxes has eroded the faith of American's in their elected officials.

In Money magazine's seventh survey of "Americans & Their Money," 80 percent of Americans are against paying higher taxes to lower the deficit. They know tax increases do not reduce deficits. Deficits are reduced by cutting spending.

And, here we are again debating another Democratic tax increase.

The faith of Americans is further eroded by the funding of ridiculous pork barrel projects that I have just talked about earlier. Why was \$2.7 million spent for Abraham Lincoln Research and Interpretive Center? Why was \$148.5 million spent on a project to demonstrate methods of eliminating traffic congestion and to promote economic benefits?

These and many other projects which we have discussed—which I have discussed on this floor many times—why did we raise taxes by \$166 billion over 5 years while we funded so much waste? If those new taxes were needed at all, they were needed for deficit reduction.

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

Mr. MCCAIN. I will be glad to yield to the distinguished majority leader.

Mr. MITCHELL. I would not want the Senator to lose his right to the floor. I just want to make a point.

Mr. President and Members of the Senate, we attempted last evening, following some lengthy discussions among the managers, the distinguished Republican leader, and myself, to obtain an agreement identifying and limiting the remaining amendments to the bill. That effort was not successful. But in the process, it was determined that there remain several amendments to the bill.

It is my hope that not all will be offered, and I encourage those Senators who are considering offering amendments not to do so to permit us to complete action on the bill.

However, if a Senator is determined to offer an amendment, I ask and I urge that each of those Senators come to the floor and be ready to proceed with their amendments; to contact the managers of the bill to let them know, so we will have the minimum delay and interruption today. Because I know several Senators have other commitments that they want to make.

So I repeat, I expect we will be in session for quite a long while today, with

this lengthy list of amendments. But I ask, in the interests of accommodating as many Senators as possible, that those who do intend to offer amendments come to the Senate floor, be prepared to proceed, notify the managers so we can keep it going with a minimum of delay between amendments, and hopefully, if possible, Senators will take only that amount of time necessary to make their case effectively and try to be as concise as possible.

Mr. PACKWOOD. Will the leader yield? Just to alert the people on our side—I understand we are going Republican, Democrat, Republican, Democrat. Senator MCCAIN is up now. Then, in order, on our side, we have Senators KASTEN, D'AMATO, and GRASSLEY, and I told all three of them. So I assume as soon as a Democratic amendment comes up, they will be ready to go right afterward.

Mr. BUMBERS. Will the majority leader yield? Just to help the majority leader along, I ask unanimous consent, since the Democrats will offer the next amendment, I be recognized immediately after the vote on this to offer an amendment, to which Senator GRAHAM will have a second-degree amendment. The whole thing should not take over 30 minutes, just so there is no time lag.

Mr. BENTSEN. Let me ask the distinguished Senator from Arkansas—I am amenable to that. It would be a substantial help if we could get some kind of time agreement on it.

Mr. BUMBERS. I just wish Senator GRAHAM were here. I am willing to take 20 minutes equally divided on mine and probably I can cut it shorter than that, because the debate will be the same on both amendments. I cannot speak for Senator GRAHAM. I wish I could. I would like to enter a short time agreement and help the majority leader move this along.

Mr. BENTSEN. If there is no objection, we will have an agreement.

Mr. PACKWOOD. We have not seen the amendment. We will try to clear it very quickly. I hope to get time agreements.

Mr. BENTSEN. We hope to have time agreements on most of them. We do not have one on this one?

Mr. MCCAIN. I would be glad to enter into a time agreement if the distinguished chairman seeks to do so. I have not been asked to.

Mr. BENTSEN. I then ask if we can get some limitation of time. We have been speaking for some time now. How much more time does the Senator require?

Mr. MCCAIN. I would propose another half hour, equally divided.

Mr. BENTSEN. That is certainly agreeable on this side.

I would advise the Senator that I will be making a point of order on his amendment and that that would be a part of that agreement. If there is no

objection, we will have a time limitation of 30 minutes. Is that equally divided? Is that what the Senator is suggesting?

Mr. MCCAIN. Yes.

Mr. BENTSEN. That will be fine. That will include the point of order.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BENTSEN. I have been advised by the chairman of the Appropriations Committee that he wants to speak on the subject, and with that in mind—

Mr. MCCAIN. Mr. President, until I have some idea as to the length of time that the distinguished chairman is going to speak—

Mr. BENTSEN. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, after conferring with the author of the amendment and the distinguished chairman of the Appropriations Committee and subject to the ranking member of the Finance Committee and others who might object, I ask unanimous consent that the time on this amendment be allocated 30 minutes to the chairman of the Appropriations Committee, the distinguished Senator from West Virginia, an additional 15 minutes to the time already spoken by the Senator from Arizona, the author of the legislation, and 10 minutes to the manager of the bill on the majority side and no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none—

Mr. BENTSEN. That includes time for a point of order.

The PRESIDING OFFICER. The Chair hears no objection. Without objection, the unanimous-consent agreement propounded by the Senator from Texas is agreed to. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, it is my intention to use 5 minutes of my 15 minutes and more at the end.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BRYAN). Is there a sufficient second?

The yeas and nays have been requested by the Senator from Arizona. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I feel that the mood of the Nation today is remarkably similar to that of 18th century England as described by Thomas Paine. He stated:

There are two distinct classes of men in the Nation, those who pay taxes and those who receive and live upon taxes. \* \* \* When taxation is carried to excess, it cannot fail to disunite those two, and something of this is now beginning to appear.

I feel that repeated tax increases and a mountain of debt has disunited the people from their Government, that Congress has lived upon the American people excessively. In fact, we have lived so extravagantly that we have had to borrow \$3.7 trillion.

As we all know, Mr. President, the Congress of the United States collects 20 cents of every dollar earned by Americans. I think a case could be made for earnings being private property. Thus, the Congress taxes private property in the form of taxation, but does the public receive just compensation?

Mr. President, I would like to at this time thank the many groups from Arizona and around the country that have added their support to this crucial effort and who have worked tirelessly to help enact this amendment. The groups include: United States Business and Industrial Council, the National Tax Limitation Committee, National Taxpayers Union, Citizens Against Government Waste, Citizens for a Sound Economy, dozens of locals of chambers of commerce in Arizona and around the country, the American Legislative Exchange Council, United States Federation of Small Businesses, Arizona Federation of Taxpayers, and other organizations including Enough, an antitax organization, and Cofire, and 38 member groups.

I quote from a letter from Cofire. It says:

It is our contention that the current Senate procedures which demand a supermajority vote to lower taxes and a simple majority to raise taxes are neither equitable nor in the public interest.

From the National Taxpayers Union:

The systematic bias towards higher taxes and spending has driven the Federal Government's share of gross national product over 25 percent while inflation adjusted tax collections have soared by 20 percent over the last 10 years. The McCain amendment would help reduce the tax-and-spend bias, giving the economy its best opportunity for real and sustained growth.

Mr. President, last Tuesday the people of Oklahoma decided to make a decision and take matters into their own hands. That, also, I think, may take place in my State of Arizona. I quote from an AP wire story of last Wednesday:

After four major tax increases in less than a decade, Oklahoma voters pulled the purse strings tighter than in any other State. Voters approved a constitutional amendment that slaps the tightest restrictions in the Nation on the legislature's ability to raise taxes. The measure requires any tax increase passed with less than a three-fourths majority in both Houses of the legislature be put to the voters at the next election. It also gives voters time to mount a petition drive against a new levy.

Mr. President, the anger and dissatisfaction is out there. The people of this country deserve better. We have to start changing the way we do business if we have any hope not only for fiscal sanity but to regain the confidence of the American people.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I have listened with great interest to the distinguished Senator from Arizona [Mr. MCCAIN] who has engaged in quite a bit of Congress bashing this morning. I recognize that Congress is a convenient target for all politicians these days, and that does not exclude those of us who are Members of Congress. As a matter of fact, I suppose some of the most vicious Congress bashing is engaged in by some of those who are Members of this body.

And I also suppose the problem has been to some degree the case in all generations since 1789 when Congress first met. I do know that Congress has been a target for criticism and lampooning, obloquy and scorn by cartoonists, editorial writers, and news reporters from the very beginning.

There is no gainsaying the fact Congress is not entitled to a considerable amount of criticism. I have been in this body now, I am in my 34th year. I was a Member of the other body for 6 years before coming to the Senate and a Member of both Houses of the State legislature for 6 years prior to that, so I have had an eye on Congress for a good many years. I have never seen, however, the amount of Congress bashing by Members of this body that I have witnessed during these past very few years in the Congress.

When I came to this body, there were men like Everett Dirksen, Richard B. Russell, John McClellan, John Stennis, Bob Taft. There were some giants on both sides of the aisle, and they were men who were entitled to the respect of their peers and to the respect of the Nation.

In those years, I do not recall ever having heard Members of this body rise day after day almost and point fingers at the very body of which they were Members. It just seems that Members in today's Senate get a great enjoyment out of fouling their own nest by poking scorn at the Congress. I say Congress is entitled to some criticism and, where it is due, it will be said. But to point the finger at Congress for purely partisan reasons, and that is pretty obvious, and try to put the blame on Congress, is wrong. There is enough blame to go around when it comes to Federal spending. When it comes to Government spending, there is enough blame to go around.

We are entitled to our share of criticism, but those of us in this body who like to point the finger at Congress as

being the perpetrator and virtually the sole perpetrator, to hear them talk, is, I think demeaning to themselves and it should be obvious to any objective observer as to what is going on. They are being demagogues; that is what it amounts to, pure demagoguery.

There was something said here on the floor this morning to the effect of, let us see how we got where we are. Mr. President, I want to pick up on that theme. Let us see how we got where we are.

The massive budget deficits are portrayed on this chart, and those who observe this chart will note that there never was a triple-digit, billion-dollar deficit until Ronald Reagan became President of the United States. The facts show that.

Beginning in 1976, this chart shows deficits each year beginning with the first Ford year. These are fiscal years, and in the first fiscal year for which Mr. Ford was responsible, there was a \$70 billion deficit. In 1977, there was a \$50 billion deficit. That was Mr. Ford's second year.

Mr. Carter was sworn in as President, but the fiscal year did not begin in January as it once did when I first came here. Mr. Carter was responsible for four deficits, the first one being \$55 billion in 1978; \$38 billion in 1979; \$73 billion in 1980; and \$74 billion in 1981. Those were the deficits, according to CBO.

The first fiscal year for which Mr. Reagan was responsible, there was a \$120 billion deficit. The first triple-digit, billion-dollar deficit was in Mr. Reagan's first fiscal year of responsibility, and from then on, we have seen repeated triple-digit, billion-dollar deficits.

Now if we want to say let us see how we got where we are, there it is on the chart. In the second year under Mr. Reagan, the deficit was \$208 billion. The third year, \$186 billion. The fourth year, \$222 billion. The fifth year, \$238 billion. The sixth year, \$169 billion. The seventh year, \$194 billion. The eighth year, \$206 billion.

And then we came to the Bush administration. His first year, \$277 billion. The next year, \$321 billion. This year, according to CBO, the deficit will be \$404 billion for fiscal year 1992. The administration says it will be \$399 billion, on budget. There are the string of billion-dollar deficits. In fiscal year 1993, the deficit is predicted to reach \$391 billion.

Now that is how we got where we are. Let anyone challenge the charts if they want to point the finger at Congress. And why has the President never sent up a balanced budget? Not once did President Reagan ever send up a balanced budget. If President Bush wants to send up a balanced budget, why does he not do it and why do those who point the finger at Congress not urge their President to send up a balanced budget for once, just for once?

The American people can see what happened and when it happened and to the degree that it happened. What were the causes of these massive deficits? Let us stay on this chart for a moment.

The Reagan tax cut in 1981 accounted for over \$2 trillion over the decade. As a matter of fact, I have those figures in my hand.

Source: Budgets of U.S. Government. The revenue effects of major tax legislation beginning in 1982, the Economic Recovery Tax Act of 1981, \$36 billion; 1983, \$91 billion; 1984, \$137 billion; 1985, \$170 billion; 1986, \$210 billion; 1987, \$242 billion; 1988, \$264 billion; 1989, \$291 billion; 1990, \$323 billion and 1991 would be higher. But the total just through 1990, the total cost of the 1981 Reagan tax cut—the Reagan tax cut—the total cost through 1990 amounted to \$1.764 trillion. Now if we add 1991, which, as I say, was more than the \$323 billion showing in 1990, the total cost of the 1981 Reagan tax cut to date is easily computed to be over \$2 trillion.

I voted for that tax cut. So I am willing to share my part of the blame, but I regret it. But it is water over the dam.

What else happened? There was the massive military buildup during the Reagan years. I voted for that, too.

How much did that amount to during the Reagan years? Expenditures for national defense: In the first year of Mr. Reagan's fiscal year responsibility, \$185,309,000,000; the second year, \$209,903,000,000; the third year, \$227,413,000,000; the fourth year, \$252,748,000,000; the fifth year, \$273,375,000,000; the next year, \$281,999,000,000; the next year, \$290,361,000,000; the next year, \$303,559,000,000; 8 years totaling \$2,024,667,000,000.

These caused the deficit, the massive military buildup, and the massive tax cut. I plead guilty. I say mea culpa. I voted for both—all of it. I am not just pointing a finger at someone else. I am pointing the finger both ways, at the executive and at the legislative, because I was a part of the legislative.

What was the result of these massive deficits that came about under leadership of President Reagan? A colossal national debt.

The next chart, still showing how we got where we are. January 20, 1981, when Mr. Reagan took office, our national debt was \$932 billion, a lot of money, but still under a trillion dollars.

Mr. President, that was the total accumulation of debt for 192 years—total accumulation, all the deficits that had occurred during 192 years, and 39 administrations, under 38 Presidents—President Grover Cleveland, having been elected twice but not consecutively. One hundred ninety-two years; during that time we paid the Revolutionary War debts, the costs of the War of 1812, the costs of the war with Mex-

ico, 1846-48; the Civil War, the war with Spain in 1898, the First World War, the Second World War, the war in Korea, the war in Vietnam, the panic of 1873, the panic of 1893, and the Great Depression of the 1930's.

So there you are, Mr. President, through the Presidencies of George Washington, John Adams, Jefferson, Madison, Monroe, John Quincy Adams, Jackson, Van Buren, William Henry Harrison, Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Andrew Johnson, Grant, Hayes, Garfield, Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter—all of these and still the national debt was under \$1 trillion dollars.

But when Mr. Reagan hit town, the triple-digit, billion-dollar deficits hit town. The national debt stood at \$932 billion. On January 20, 1989, when Mr. Bush took office, he inherited from Mr. Reagan a \$2.683 trillion debt. By January 20, 1992, January 20 of this year, the national debt had grown to \$3.694 trillion. The debt will reach over \$4 trillion before the end of this year.

The net interest on the U.S. debt was \$69 billion in fiscal year 1981 when Mr. Reagan took office; for fiscal year 1993, it is estimated to be \$212.67 billion in interest.

So where are we going now? Let us see where that is taking us. Those of us who are Members of the Senate can take a considerable amount of credit for this, along with the administration. This is where we are going.

This chart shows that during the fiscal years 1981 through 1997, outlays in billions of dollars for domestic discretionary spending—that is what most Senators who criticize the Congress and most people on the outside who criticize Congress have in mind: domestic discretionary, nondefense, discretionary initiatives—will have been cut under baseline, under inflation, \$655 billion; foreign operations will have been cut over these years, 1991-97, \$27 billion; defense will have increased \$733 billion, and entitlements and mandatories will have increased, will have increased \$12,524,000,000,000.

Entitlements. That is where we have all been at fault. We have just willy-nilly voted for all of the entitlement and mandatory increases that have come along. I voted for those, too. I expect if every Senator here will look at his own voting record—and those who like to point to Congress—he will find his own voting record showing that he helped to increase this figure on the chart by the green and black bar, and which is representative of entitlements and mandatories.

That is where it is going to take some gall, and steel in the backbone, and a lot of political courage, not so

much finger pointing but political courage to do something about that. Mr. President, for those who say "let us see how we got where we are," that is how we did it: namely, the 1981 Reagan tax cut; the colossal military buildup under Mr. Reagan; plus the savings and loan debacle and the current recession.

Now I want to talk just briefly about the budget summit. We have heard considerable exhortation of the budget summit. I was part of the budget summit. I hope I never have to attend another budget summit.

There were others here who were part of that summit, Mr. DOMENICI, Mr. HATFIELD, Mr. PACKWOOD, Mr. BENTSEN, Mr. SASSER, Mr. FOWLER, and the President's representatives were there, Mr. Sununu, Mr. Darman, and the Secretary of the Treasury, and of course representatives from the House on both sides of the aisle, the Speaker, the minority leader, the majority leader over there; also on this side, Majority Leader MITCHELL and Minority Leader DOLE.

We thought we did the best we could do and we thought, and I still think, that it was worthwhile.

Let me say about that budget summit that there has been a lot of deploring the fact that we went to a budget summit. Let me tell you why we went. In the "Initial OMB sequester report to the President and Congress for fiscal year 1991," issued on August 20, 1990, this is what we find on page 9:

Under current estimates, the uniform percentage reduction is 32.4 percent for non-defense programs. For defense programs on August 10, 1990, the Director of OMB notified Congress of the President's intent to exempt the military personnel accounts from sequestration, as permitted by the Gramm-Rudman-Hollings Act. For the remaining defense programs subject to sequester, the uniform percentage reduction is 35.3 percent.

With that we were faced with a sequester. May I say to my friend from Arizona, the distinguished Senator, Mr. MCCAIN, that sequester was not just going to be in nondefense programs. According to this language I have just read, in defense programs we received the notification from the Director of OMB that the President intended to subject defense programs to a sequester amounting to a uniform percentage reduction of 35.3 percent.

The potential estimates for the October report indicated even higher uniform percentage reductions: 40.7 percent for nondefense programs, and 43.6 percent for defense programs.

Now we had to do something. If we had not had that summit there would have been a wholesale sequester, not just of nondefense discretionary but we were also faced with a cut in defense at that particular time, of 35.3 percent.

So there had to be negotiations, and the President of the United States was a part of the negotiations.

Mr. Bush has lately indicated that he is sorry for the tax increases he agreed to at the budget summit.

Mr. President, he has said he would do whatever it takes, whatever it takes, to be reelected. I personally like the President. But I am sorry he ever said that he would "do whatever it takes to be reelected."

So I guess when he said "mea culpa" with respect to the budget summit, he was doing "whatever it takes to be reelected." Yet, the President knew at the summit that in order to avoid a severe sequester of defense programs as well as nondefense discretionary, there had to be an agreement, and the summit agreement resulted in a package saving almost \$500 billion over a period of 5 years.

You may say, well, the deficits are still going up and the debt is going up. That is true. But if we had not had that budget summit, the deficits would have amounted to \$500 billion more. So the budget agreement has enabled us to exercise some discipline. We poor devils who had to go over there and spend those days away from home did the best we could and I think, through his representatives, the President did the right thing. We did the right thing. I hope I do not ever have to sit in another budget summit. But who knows? I may have to do it.

Mr. President, I will close shortly. The McCain amendment would tear apart the pay-as-you-go requirement of the Budget Enforcement Act of 1990 and would bring to a halt any legislation containing the slightest income tax increase, including, I might add, many administration proposals. It would open the floodgates for revenue-losing amendments to be paid for in an end-of-session sequester against programs that benefit farmers, veterans, the sick, and the poor.

This amendment attacks the tax increases of the past 10 years, but fails to recognize that these tax increases were dwarfed by the \$2 trillion tax reduction made by the Reagan 1981 Economic Recovery Tax Act.

The 1990 budget summit agreement may not always be popular, but it has imposed genuine fiscal discipline. One keystone of that agreement was the pay-as-you-go provision, which requires tax reductions and entitlement increases to be paid for from within revenues and entitlements by the committees of jurisdiction. Prior to the Budget Enforcement Act of 1990, tax reductions and entitlement increases routinely forced spending reductions by sequesters of discretionary appropriations.

Since that agreement, tax changes have been revenue neutral. The McCain amendment would require a separate supermajority vote on every revenue-raising change in the income tax. It would wreck the pay-as-you-go principle. Every time the slightest income

tax increase appears on any bill, a 60-vote majority would be required to consider and to adopt that provision.

Senators should understand what that implies. Look, for example, at the list of income tax proposals contained in the President's budget, which would require, on the tax increases proposed by the President in his budget, a 60-vote majority to be adopted, if the McCain amendment is adopted.

Here are some of the President's proposals: Capital gains reduction recapture of depreciation; Flexible individual retirement accounts; Simplify taxation of pension distributions; Modify taxation of annuities without life contingencies; Conform book and accounting rules for securities inventories; Prohibit double-dipping by thrifts receiving Federal financial assistance; Equalize the tax treatment of large credit unions and thrifts; Disallow interest deductions on corporate-owned life insurance [COLI] loans.

Under the amendment by Mr. MCCAIN, 8 of the 33 income tax changes proposed by the administration would require a 60-vote supermajority to be adopted. This amendment would eliminate a 60-vote point of order, under section 311 of the Budget Act, against bills and amendments which would reduce income taxes.

Why is that? Why do we need a 60-vote point of order against amendments that would reduce income tax? It is necessary in order to remain true to the commitments made by the executive and legislative branches in relation to the budget agreement. It is easy to cut taxes, but it is hard to raise taxes. If we come in here willy-nilly with amendments that cut taxes—

The PRESIDING OFFICER. The Chair informs the Senator that the 30 minutes reserved for him under the previous unanimous-consent agreement has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for 5 more minutes on each side.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to reserve 10 minutes for myself to respond to some of the comments of the Appropriations chairman.

Mr. BENTSEN. In turn, I have only 10 minutes as manager of the bill, far less than anyone, so I ask for an additional 5 minutes to respond to some of the comments that I am sure will be made.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that I may have an additional 3 minutes to respond. I may not need it. I have made the record, as far as I am concerned. I just want a little extra insurance.

The PRESIDING OFFICER. The request is an additional 3 minutes to respond.

Is there objection?

Mr. MCCAIN. Mr. President, I request the same, an additional 3 minutes.

The PRESIDING OFFICER. If the Senator will suspend, we have an additional request for 3 minutes by the Senator from West Virginia, and an additional 3 minutes from the Senator from Arizona [Mr. MCCAIN].

Without objection, the two requests are agreed to and made part of the unanimous-consent agreement.

Mr. BYRD. Mr. President, I hope that the Senator from Arizona will agree that if the Senator from West Virginia feels he does not need to take his 3 minutes, that the Senator from Arizona will not feel compelled to take his additional 3 minutes.

Mr. MCCAIN. It is always educational to hear the distinguished Senator from West Virginia under any time agreement.

Mr. BYRD. The Senator did not answer my question, but I will go on.

The floodgates would be open every time a tax bill is considered here.

Every dollar of income tax reduction not paid for would be recouped by the end-of-session sequester, which would make the farmers, veterans, sick, and poor pay for the income tax reductions allowed by the amendment.

Why do we need this amendment? Do income tax increases pass so easily around here that we must restrain ourselves with a 60-vote super majority?

I have a list of the major income tax bills since 1981. It shows a number of acts which have raised income tax revenue. But these bills, as I have indicated, are overshadowed by the Economic Recovery Tax Act of 1981.

If this table were extended through 1991, it would show a cut of \$2 trillion from Federal income tax revenues over the past decade resulting from the 1981 Reagan tax cut.

Mr. President, this amendment is nothing more than an attempt to game the Budget Act to further a political agenda. It is an irresponsible proposal, and it ought to be defeated. The President sends up tax increases every year in his budget, as I have already indicated. Senators want those to be subject to a 60-vote point in the Defense budget. Mr. MCCAIN and the President want a line-item veto, but the biggest pork project of them all is the SDI. If Mr. Bush had the line-item veto, he would not touch that one. Other large "pork" items are the space station and the superconductor super collider. There might be a President in the White House one day who would go after all of these with his line-item veto pen.

Entitlement spending is out of control, as I have already indicated, but the line-item veto would not even touch that.

So in the budget summit, as I have indicated, the President was a player, and he signed on. If we completely

eliminated all of the domestic discretionary spending, it would not cancel the deficit for this year. If we completely eliminated all of the non-defense discretionary spending for this year, it would not even pay the interest on the debt for this year.

The S&L bailout has had a lot to do with the growth of deficits in recent years.

I note that my friend from Arizona did not mention the S&L losses. We are one of the lowest taxed major industrial countries in the world. Nobody likes to pay taxes.

But lowering Federal taxes usually only causes local and State taxes to rise. Essential services have to be provided. There is no way to do that for free. If low taxes are good, then no taxes must be best of all, if we follow the logic of the distinguished Senator from Arizona. No taxes would be best of all. I agree, but we are not living in a dream world.

I, too, would like to live in a no-tax environment, but we have to have a little common sense in these matters. Anybody can see the ridiculousness of this argument if followed to its logical conclusion.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes 18 seconds of the 8 minutes that he requested, the 5 being requested initially and then the 3 minutes. The Chair was uncertain as to how the Senator wished to use the remaining 3 minutes. The total is the 5 plus the 3.

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

Mr. MCCAIN. Mr. President, I yield 4 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized for 4 minutes.

Mr. LOTT. I thank the distinguished Senator from Arizona for yielding me this time, and I commend him for the effort he made both last year and this year in offering this very important amendment.

With all of the talk about budget summits and spending, I think maybe we have lost sight of what this amendment does. I would like to repeat it for a minute.

It repeals the provision in the budget deal that requires a 60-vote supermajority for tax cuts. It replaces that provision with a supermajority of 60 votes for the creation of new taxes or an increase in existing taxes. Therefore, there would be a 51-vote simple majority required for tax cuts. There is a firewall protecting Social Security.

You know, out in the real world, in our States that we represent, if you told people that it takes a supermajority to cut taxes, but you can raise taxes just by a 50-percent vote, I am convinced they would think we lost our

minds, that we got it completely backward from what it ought to be. Why should we make it hard to cut taxes and easy to raise taxes? So we ought to have this reversed.

There has been a lot of talk about the budget summits.

The American people do not understand all this talk about whether this is Republican or Democrat, regional, political, partisan, institutional. I think they would say: a pox on all your houses. They blame the President, and they blame the Congress.

I agree with what has been said here today by the Senator from Arizona. The problem is not insufficient revenue. It is too much spending that we all participate in. That is right, we have all voted for it in domestic discretionary spending and entitlements.

The people say, "The heck with all of you. Get this under control, and do not do it by raising my tax." I have been in these budget summits, I am ashamed to say. I was in two when I was in the other body. I know it is tough. You have to give and take. But every time we have had these budget agreements, and we were going to control spending, spending went up. I do not understand that. And every time we raised taxes a dollar, spending went up \$1.59.

Twice I was in the budget summits. Thank goodness, I was not in the one in 1990. I commend the people who were in there. I know it is tough. You have people of all kinds of political persuasions and regions, and you have to blend them. However, when you make budget agreements that allow spending to go up, raise taxes, and do not deal with the deficit, you are not doing your job. I think the people have had enough of it.

I think we should make it harder to raise taxes. Some of you can call it partisanship, political rhetoric, if you want to, but the fact is that we have been, continue to be, and I guess as long as we are all here in the makeup we now have, we are going to be a tax-and-spend organization. We should spend less, and we should not be raising taxes. We should make it tough to raise taxes. Sixty percent is what should be required. I certainly support this amendment.

If you want to talk about spending priorities, or where you would cut taxes, OK, we can debate that. But I am still astounded, more than anything else, that in that budget agreement in 1990 we made it tougher to cut taxes.

Right now I support that budget agreement, although I voted against it. I know the best possible effort was made, and I am also convinced that when we undo it it is going to get even worse.

I give credit to that line of thinking and that is the way I am going to try to vote.

But to turn around in that budget agreement and make it harder to cut

taxes and easier to raise taxes, the American people do not understand that. We should support the amendment of the distinguished Senator from Arizona. It is the way we should go. And I guarantee you if you took a poll of the people we represent they would support the amendment of the Senator from Arizona.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. KOHL). Who yields time?

The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President I believe I have 10 minutes reserved to myself; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, I would like to address some of the comments of the Appropriations Committee chairman and especially his charts. I wonder if he could put back up the chart that shows the deficit under the different years. I would appreciate it very much.

You will notice that the immense deficits started, first with President Reagan in 1983, and continued to go up under the Republican Presidents.

I believe the distinguished Senator from West Virginia and the Appropriations Committee chairman was indicating perhaps that it is more a Presidential fault than a congressional fault. I am not here to argue whether this was a Presidential fault or a congressional fault nor to bash Congress. But I do want to call to the attention of this body one thing: When we passed the tax cuts in the summer of 1981, the so-called Kemp-Roth bill, the so-called Reagan tax cuts—call it what you want—the Congressional Budget Office, not the Office of Management and Budget, was projecting immense surpluses.

Let me go back to those years shown in the charts, because we seem to have forgotten. First, the OMB projections and our CBO projections of President Jimmy Carter's budget—and then the Congressional Budget Office projections in the early Reagan years.

In January 1980, when President Carter was projecting his 1981 budget, he projected a surplus in 1985 of \$158 billion. When the Congressional Budget Office in February 1980, did a baseline projection—and by baseline they mean if we do not change any laws—they predicted by 1985 a \$178 billion surplus.

But now let us go on to the early Reagan months. Jimmy Carter's last budget, in January 1980, his OMB projection was \$138 billion surplus by 1986. But the critical projections came in the summer of that year.

We passed the Reagan tax bill in late July 1981.

I want to give you the Congressional Budget Office—and this was not a Republican budget office—Alice Rivlin was still the director of it. She was di-

rector from 1975 continuing on into the early Reagan years.

In July 1981, before we passed any Reagan tax cuts, the Congressional Budget Office baseline report was as follows: In 1981, we would have a deficit of \$48 billion; in 1982 a deficit of \$30 billion; in 1983, a surplus of \$18 billion; in 1984 a surplus of \$76 billion; in 1985 a surplus of \$138 billion; and in 1986 a surplus of \$209 billion; if we made no change in the law.

Then, the Congressional Budget Office, looking at our congressional budget resolution, did a projection which included the Reagan tax cuts, and the spending cuts proposed by the congressional budget resolution—not the President's budget—our budget. They projected that, with the tax cuts, we would have a surplus of \$1 billion by 1984; the deficits would go down from \$59 billion in 1981, \$38 billion in 1982, \$19 billion in 1983, and then a \$1 billion surplus in 1984. That's with the 1981 tax cuts.

Now, there are two things that they missed, and everybody else missed. We were then in the throes of 13, 14 percent inflation, and there was no projection that the inflation was going to drop rapidly. And no one projected the 1981-82 recession—nobody—not the Congressional Budget Office, not the Chase Manhattan Bank not anybody else.

So at the time we passed the tax cuts, the fear of the administration, and I think correctly, based upon past habits of administrations and Congresses, was that if we had this immense surplus, we would not give it back to the people; we would spend it.

And those tax cuts were premised on the fact of taking the surplus away from the Government and giving it back to the people. Now, what we hoped in our projections turned out to be wrong. But let us not go back now and have revisionist history and say that because of the tax cuts, we got the deficits. That was not our understanding—Congress' understanding—when we passed them.

Now, let us take a second set of figures and then try to ask ourselves what we are going to come to. And I am not blaming the Congress or the President. In 1950 in this country, in all of the governments of the United States—Federal, State, and local—we taxed about 21 percent of the gross national product. All of us—Federal Government, State government, school districts, water districts—taxed 21 percent of the gross national product. And we spent about 23 percent. We had a deficit. Forty years later, we are taxing close to 30 percent of the gross national product, all of our governments and we are spending 33 percent. We still have a deficit. The fact that the taxes have gone up has not narrowed the deficit. Taxes have gone up, and we spent the money.

The interesting comparison is the same thing has happened in every in-

dustrialized country of the world. They just started from a much higher base than we did of tax and spend, until today the Scandinavian countries are taxing in excess of 50 percent of their gross national product and spending a bit more than they are taking in. They have deficits, too.

And the question we ought to ask ourselves, not as an argument about deficits and who is responsible for them, but in 10 or 15 or 20 years, do we want to look like Sweden? Do we want to tax 45 or 50 percent of our gross national product, and spend 47 or 35 percent of it and still have a deficit? Because that is the direction we are heading.

And nothing is going to change that until we get a constitutional amendment to compel us to balance the budget. Whether that is the President's fault or Congress' fault, I am not sure. Maybe it is our collective fault. Maybe we ought to quit pointing the finger at each other and realize that for whatever reason—I am not going to call it lack of control or lack of foresight or lack of intelligence—but for whatever reason, we collectively have been unable to curb our taxing and then spending appetite.

Nothing we have tried in the 34 years that the Appropriations chairman has been in this body or the 24 years that I have been here—whether we had Republican Presidents or Democratic Presidents—nothing has worked.

The Senator will remember when we had in this body—I think in the early 1970's, and I voted against it—a resolution that would have allowed the President to cut the budget if spending exceeded \$250 billion. He could impound anyplace he wanted to. I did not say deficits; I said spending. And we defeated it. We did not want to delegate that power to the President, and I voted not to delegate it.

The President could have cut spending where he wanted. He might cut projects that I did not like; he might cut projects the President pro tempore did not like. We denied it to him; and we have been a collective failure, Congress and the President, ever since.

I hope, considering that I am running for reelection this year, that that is not an argument to throw out of office all of those who have been here all that time, because we have collectively failed; but we have.

So let us quit blaming each other, and Republicans and Democrats, and Presidents and Congress, and realize whatever we tried in the past has failed. And until we have some constitutional compulsion that makes us balance the budget, either by reducing spending or increasing taxes, until we have that compulsion, we are not going to succeed. But what is irrevocably shown by the evidence in the past is that tax increases do not lead to reduced deficits; they lead to increased spending.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. MCCAIN. Mr. President, I, as always, listened with interest and respect to the eloquent statements of the distinguished chairman of the Appropriations Committee. I would like to respond to some of the points he made. He made reference at the beginning of his comments and at the end to demagoguery or political agendas or other motivation behind an amendment such as this.

I have to respond by saying, Mr. President, that when only 22 percent, or 17 percent in another poll that I saw, of the American people approve of what the Congress is doing, their major complaint being the spending, profligate spending practices and the failure to impose fiscal discipline, I suggest that it is not demagoguery. It is trying to respond to the cry of the American people who say we can no longer realize the American dream because of the burden of taxation that is being placed on us by the Federal Government.

I believe that the people of the State of Oklahoma acted last Tuesday and approved a constitutional amendment that slaps restrictions on the legislature's ability to raise taxes. In my own State, over 100,000 signatures do to basically what this amendment does in our State was gathered in a very short period of time.

Mr. President, the American people are fed up and they want some fiscal discipline. Now, as far as the responsibility is concerned—and I share the view of the Senator from Oregon, who said perhaps we should not place blame and point fingers but try to do something about it. And, by the way, that is the purpose of this amendment, to try to do something about the process, not the institution. If anyone interprets my criticism of this process as a criticism of the institution, then they are not accurately interpreting my remarks.

As far as the responsibilities of the President are concerned, I would just point out the U.S. Constitution, article I, section 9, says "No money"—shall be drawn from the Treasury, but in consequence of appropriations made my law." Let me repeat that. "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." We know who appropriates the money. It is the Congress of the United States. The President proposes, the Congress disposes.

In recent conversation with former President Reagan, he told me the one tool that he wished he had when he was President of the States was a line-item veto. I think it is very clear that no penny of the taxpayers dollars can be

expended without appropriations by the Congress. And that is why we have to reform the system that Congress is using today.

As far as the budget summit agreement is concerned, Mr. President, again I congratulate President Bush in agreeing that it was a serious mistake to agree to the budget summit agreement.

The distinguished chairman of the Appropriations Committee talked about fiscal discipline, how the budget deal created some fiscal discipline. I guess it is in the eye of the beholder. In 1991, there was a 12.6-percent increase in spending as a result of the 1990 budget summit agreement and there is a mandatory 8-percent increase in spending as a result of the budget summit agreement between 1991 and 1996. That, Mr. President, is not my view of fiscal discipline. It far exceeds inflation and continues to show us that, as a result of the budget summit agreement, spending continues out of control.

And, again, Mr. President, there was a great man that said those who ignore the lessons of history are doomed to repeat them. Five of the six previous budget summit agreements resulted in higher taxes, higher spending, higher deficits. I hope that at some point the lesson is that we do not need them. In the 2 years that we did not have budget summits, guess what? The deficit went down. I think we should pay attention to the lessons of history.

As far as the agenda of this Senator is concerned, my agenda is clear and simple. I believe that the greatest fear of the people that I represent is their economic future. They are going to pay more on April 15 than they have at any time since World War II in the form of State, Federal, and local taxes. They will work until sometime around the middle of May in paying off those State, local, and Federal taxes before they get a dime to spend on themselves, their children, their education, their homes, and, hopefully, for their way of life.

Mr. President, I think they need some relief. I think that before we increase the tax burden on the American people again, we should have a system where it is not easy to raise taxes. Clearly, a system where it is easier to raise their taxes than it is to lower their taxes, is wrong. Every single citizen in my State that I have told that, the first reaction is surprise and the second reaction is anger, because they do not think it should be easier to raise their taxes than to lower them. I think that makes perfect sense.

That is all this amendment is doing. That is simply all it does. It is not complicated; it is not complex. It is on one sheet of paper that is at the desk. I urge my colleagues to give it serious consideration.

I realize that we may lose on a budget point of order as a result of this

process. Interestingly enough, we will be hung up on that. At the same time, I hope that we will be able to change this process, in fairness to the American taxpayer.

I reserve the remainder of my time.

Mr. BENTSEN addressed the Chair.

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

Mr. BENTSEN. Mr. President, I hope this amendment will be defeated. It was defeated last time, and not by just a simple majority. There were only 37 votes in favor of the amendment.

There is another interesting aspect of this. I hear the distinguished Senator from Arizona speaking of his deep concern about increasing taxes. And it was just yesterday, just yesterday, in this body that I watched him join 32 other Republicans and vote for a \$57 billion tax increase. Now that is what he did yesterday, along with 32 other Republicans.

As I look at this amendment, I think it has some superficial appeal. Why not require a 60-vote supermajority to be able to bring about a tax increase? Well, let me tell you how tough it is in the Finance Committee or on the floor of this Senate to get a majority to support any tax increase, even one that is intended to pay for a simultaneous tax cut. Do you think anyone wins political points back home for voting for a tax increase? Of course not. The popular thing to do is to vote for tax cuts and then not pay for them. And then you end up with deficit and national debt problems of the kind that the distinguished chairman of the Appropriations Committee has just described. He has just shown what has happened to us with the tax cuts that we have voted for in the past.

Pass this amendment and you will destroy the budget agreement of 1990. You will unleash runaway deficits. In 1990, we put in effect a key reform by establishing the pay-as-you-go principle. It requires new entitlements and increases in popular programs to be matched with taxes to pay for them. And that is not pleasant. This amendment would destroy that tough discipline that we added to the budget process only 2 years ago. As a result, this amendment would send the deficit right into the stratosphere.

We need the discipline of the budget agreement. I was a party to that budget agreement. I am delighted we did it. We do not have an alternative to it.

I strongly disagree with the President's decision to turn his back on the agreement. I congratulated him when he worked with us to try to put budget discipline into effect, constraining the administration and the Congress, the Democrats and the Republicans. If we had not acted, today's deficit would be greater by \$500 billion—\$500 billion—and interest rates would be higher, the recession deeper.

Let me emphasize the basic problem with this amendment. It is not deficit neutral. It is prodeficit. The catchall "notwithstanding" clause in this amendment allows a simple majority to increase the deficit by opening tax loopholes, eroding the tax base, or reducing existing taxes. However, this amendment would require a 60-vote super majority to pay for any of those changes. Under this amendment it would take 60 votes to enact a means for paying for an expansion of Medicare coverage but only a simple majority to pass a Christmas tree full of special-interest tax loopholes.

Is that the way we want the system to work? I do not think so. And that is why this amendment was voted down last time. It was voted down 6 months ago by a vote of 62 to 37.

Maybe deficits really do not bother some folks around here. Maybe they are not losing any sleep over these all-time record-high deficits. But fiscal discipline is important, now more than ever. That is why we enacted pay-as-you-go in 1990; why we have on the books longstanding points of order against deficit increases.

Oh, I hear the remarks, "Oh, they are going to use a point of order on me again; what a bore, what a nuisance." That was not done easily, putting in those points of order. But it is a discipline that is absolutely required of this Congress—points of order which can only be waived by a supermajority of the Senate.

Let me say, as chairman of the Finance Committee, I am also concerned about stacking the deck against my committee's prerogatives and responsibilities. It is hard enough to fill the requirements for deficit neutral legislation. But this amendment would say loopholes are just fine, but any offsetting revenues will have to have 60 votes. Frankly, I am not sure how this McCain amendment would work entirely in practice. But it could be construed to divide packages and allow points of order against revenue increases, while leaving the reduction undisturbed.

Let me give an example. I happen to support an extension of the R&D tax credit. So does the administration. I assume so does the Senator from Arizona. This bill provides for an extension of that tax credit. But that extension costs money, it costs revenue.

This amendment would let us pass that extension by a simple majority. But then we would have to find 60 votes to offset those losses to pay for it, to put it on a pay-as-you-go. And if we failed to bring about that supermajority, the credit would still be extended and that deficit would continue to widen.

This proposal also involves the jurisdiction of another committee, the Budget Committee, by amending the Budget Act—a 60-vote point of order

against this amendment on the grounds it contains legislation within Budget Committee jurisdiction, but has not been reported by that committee. I am delighted to see the chairman of the Budget Committee here. I assume—if he does not, I will—at the appropriate time he will raise the appropriate point of order when all time has expired. I assume we still have some time left, do we?

I reserve the remainder of my time but I ask a clarification on the time left.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. Will the Chair advise the manager of the bill of the time remaining for the others?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes remaining, the Senator from Oregon 1 minute, and the Senator from Arizona has 8 minutes.

Mr. BENTSEN. I thank the Chair and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Arizona.

Mr. MCCAIN. Mr. President, I say to the chairman I am prepared to yield the remainder of my time and vote, if they are prepared to do so at this time. I wonder if the distinguished chairman of the Appropriations Committee is prepared to do so?

Mr. KASTEN. Mr. President, I rise in strong support for the McCain amendment to require a supermajority vote in Congress to approve tax increases.

This much-needed budget reform would prevent Congress from routinely raising taxes. This amendment would not bar tax increases. It simply requires 60 votes in the Senate to approve tax hikes.

Federal taxes are too high, not too low. As recently as 1948, a family of four at the median income level paid 2 percent of its income in Federal taxes. Today, the same family pays 24 percent of its income in Federal taxes.

Moreover, tax increases are damaging to the economy; they destroy American jobs. History shows that new taxes generate new Federal spending. According to a recent report by the minority staff of the Joint Economic Committee, in the period from 1940 to 1990, every \$1 in extra taxes have generated \$1.59 in new spending. In 1990, Congress imposed one of the largest tax increases in history, and budget deficits have hit record levels.

In order to promote economic growth and deficit reduction, I think we need to put some firm limits on Congress' ability to increase taxes on the American people. I therefore urge my colleagues to support the McCain tax limitation.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may require out of the allotted time remaining.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that there be printed in

the RECORD a table showing the "Regular Annual, Supplemental, and Deficiency Appropriation Acts Comparison of Budget Requests and Enacted Appro-

priations" for the years 1945 through 1991. These are calendar years.

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

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

Calendar year	Administration requested	Enacted appropriations	Difference under (-) /over (+)
1945	\$62,453,310,868	\$61,042,345,331	-\$1,410,965,537
1946	30,051,109,870	28,459,502,172	-1,591,607,698
1947	33,367,507,923	30,130,762,141	-3,236,745,782
1948	35,409,550,523	32,699,846,731	-2,709,703,792
1949	39,545,529,108	37,825,026,214	-1,720,502,894
1950	54,316,658,423	52,427,926,629	-1,888,731,794
1951	96,340,781,110	91,059,713,307	-5,281,067,803
1952	83,964,877,176	75,355,434,201	-8,609,442,975
1953	66,568,694,353	54,539,342,491	-12,029,351,862
1954	50,257,490,985	47,642,131,205	-2,615,359,780
1955	55,044,333,729	53,124,821,215	-1,919,512,514
1956	60,892,420,237	60,647,917,590	-244,502,647
1957	64,638,110,610	59,589,731,631	-5,048,378,979
1958	73,272,859,573	72,653,476,248	-619,383,325
1959	74,859,472,045	72,977,957,952	-1,881,514,093
1960	73,845,974,490	73,634,335,992	-211,638,498
1961	91,597,448,053	86,606,487,273	-4,990,960,780
1962	96,803,292,115	92,260,154,659	-4,543,137,456
1963	98,904,155,136	92,432,923,132	-6,471,232,004
1964	98,297,358,556	94,162,918,996	-4,134,439,560
1965	109,448,074,896	107,037,566,896	-2,410,508,000
1966	131,164,926,586	130,281,568,480	-883,358,106
1967	147,804,557,929	141,872,346,664	-5,932,211,265
1968	147,908,612,996	133,339,868,734	-14,568,744,262
1969	142,701,346,215	134,431,463,135	-8,269,883,080
1970	147,765,358,434	144,273,528,504	-3,491,829,930
1971	167,874,624,937	165,225,661,865	-2,648,963,072
1972	185,431,804,552	178,960,106,864	-6,471,697,688
1973	177,959,504,255	174,901,434,304	-3,058,069,951
1974	213,667,190,007	204,012,311,514	-9,654,878,493
1975	267,224,774,434	259,852,322,212	-7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	-10,841,459,391
1978	348,506,124,701	337,859,466,730	-10,646,657,971
1979	388,311,676,432	379,244,865,439	-9,066,810,993
1980	446,690,302,845	441,290,587,343	-5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	-17,191,422,994
1985	588,698,503,939	583,446,885,087	-5,251,618,852
1986	590,345,199,494	577,279,102,494	-13,066,097,000
1987	618,268,048,956	614,526,518,150	-3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,763	+14,073,248,410
1990	704,510,961,506	697,257,739,756	-7,253,221,750
1991	756,223,264,591	748,262,835,695	-7,960,428,896
Total	11,710,201,833,552	11,521,432,604,188	-188,769,229,364

Source: House Committee on Appropriations.

Mr. BYRD. Also, I ask unanimous consent that a table be printed in the RECORD titled "Regular Annual, Supplemental, and Deficiency Appropriation Acts Comparison of Budget Requests and Enacted Appropriations"

for the calendar years 1977 through 1988, which would show the amounts requested by the Carter administration, the amounts enacted of appropriations, and the difference during those years. And, additionally it will show the same

information for the Reagan administration years.

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

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

Calendar year	Administration requested	Enacted appropriations	Difference under (-) /over (+)
<b>Carter administration:</b>			
1977	364,867,240,174	354,025,780,783	-10,841,459,391
1978	348,506,124,701	337,859,466,730	-10,646,657,971
1979	388,311,676,432	379,244,865,439	-9,066,810,993
1980	446,690,302,845	441,290,587,343	-5,399,715,502
Total	1,548,375,344,152	1,512,420,700,295	-35,954,643,857
<b>Reagan administration:</b>			
1981	541,827,827,909	544,457,423,541	2,629,595,632
1982	507,740,133,484	514,832,375,371	7,092,241,887
1983	542,956,052,209	551,620,505,328	8,664,453,119
1984	576,343,258,980	559,151,835,986	-17,191,422,994
1985	588,698,503,939	583,446,885,087	-5,251,618,852
1986	590,345,199,494	577,279,102,494	-13,066,097,000
1987	618,268,048,956	614,526,518,150	-3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
Total	4,587,429,688,727	4,571,282,018,726	-16,147,670,001

Mr. BYRD. Mr. President, I yield back the remainder of my time.

Mr. McCAIN. Mr. President, I yield the remainder of my time.

Mr. BENTSEN. Mr. President, I yield the remainder of my time.

Mr. DURENBERGER. Mr. President, I want to take a few moments to speak in opposition to the amendment offered by my distinguished colleague from Arizona.

What this amendment does is establish a series of rules to govern Senate

votes on substantive changes in the tax law. Under this amendment, a supermajority of 60 Senators would be needed to approve any tax increase. On the other hand, a simple majority of 51

Senators would be needed to approve any tax cut.

However, under the Senator's amendment, some tax cuts are easier to achieve than others. For the amendment provides that a supermajority of 60 Senators would be needed to approve any cut in the Social Security tax.

At a time when the Federal budget deficit is \$400 billion; when the national debt is \$3.8 trillion and growing at the rate of more than \$1 billion a day, I cannot understand the rationale for this amendment unless the Senator is intent on seeing the Federal deficit rise to \$500 or \$600 billion.

When we adopted the pay-as-you-go budget agreement we established a rule providing that if a legislative proposal loses revenue, and thereby increases the deficit, the Senate must come up with sufficient offsetting revenue to pay for that proposal. If there is no offset, a revenue-losing legislative proposal can be enacted, but only if 60 Senators agree to waive the Budget Act. That is the discipline that prevents this body from further increasing the deficit.

What the pending amendment would do, is turn the budget agreement upside down. It would allow a simple majority of 51 Senators to pass legislation cutting taxes no matter the extent the budget deficit is increased. But it would require a supermajority of 60 votes to pass fiscally responsible legislation that might require a modest tax increase to pay for an emergency program or help reduce the deficit.

Mr. President, how did we get to this point today where our Nation is the largest debtor in the world? We got here because we spent the last decade expanding entitlements and domestic spending without having the will to pay for them with tax revenue. Every interest group that knocked on our door with their needs got something. And since we did not have the will to say no to spending increases, the national debt has grown to \$3.8 trillion, and interest on the debt has jumped more than 400 percent from \$52.5 billion in 1980 to more than \$215 billion this year.

Mr. President, it is the rare elected official who wants to go back home and tell his constituents that taxes have to be raised to pay for spending. All of us prefer to promise lower taxes. Yet that is precisely why we face this extraordinary national debt.

The proposal before us will make it far more difficult for the Senate to adopt fiscally responsible tax legislation, while significantly diminishing our ability to control the deficit. Is that the legacy we want to leave to our children? More debt, more tax cuts, fiscally irresponsibility.

Mr. President, this amendment fundamentally alters the rationale and logic of the budget agreement. If we vote for this amendment, we are telling

the American people that on our watch, we threw away any sense of fiscal discipline.

I urge my colleagues to oppose this amendment.

Mr. BURNS. Mr. President, I am pleased to be an original cosponsor of the McCain amendment and an original cosponsor of Senator McCain's bill.

This amendment makes good common sense, Mr. President, and is crucial to future economic growth. The kind of growth that we are all trying to achieve with the various measures we believe in.

It is currently easier to enact laws that pay for more Federal spending by raising taxes than it is to enact laws that promote economic growth and generate more revenue for everybody.

The Congress is looking to the wrong solutions.

Every American, if they were aware of this predisposition to tax increases, would be angry and upset.

So I commend Senator McCain for introducing this amendment to require a 60-vote majority for any tax increase and a simple majority of 50 votes plus 1 for a tax cut.

Senator McCain's amendment will change the way we operate here to favor the average American taxpayer.

It places a heavier burden on the U.S. Senate to control Government spending and does not allow the Senate to take the easy way out and just raise taxes.

This is an important change, and I urge my colleagues to vote for the McCain amendment.

Mr. KOHL. Mr. President, I rise in opposition to the McCain amendment. I do so, however, with mixed emotions. Senator McCain is absolutely correct when he says that Americans are angered; they believe their tax dollars are being misspent by the Federal Government. And he is absolutely correct that Congress needs to recognize and address that anger.

But I do not believe the way to address that anger is to restrict Congress' ability to make changes to the Tax Code. If Senator McCain's amendment were to pass, this body would not be able to pass a millionaire's tax. We would not be able to pass a higher tax rate on the Nation's richest Americans. We would have even had trouble adopting an amendment to restrict the tax benefits given to sweeten the S&L sweetheart deals of the late 1980's.

In short, the McCain amendment would make it more difficult for Congress to address our runaway budget deficits. I cannot believe that our constituents are crying out for that.

Every economist I have heard or read agrees that our Federal deficit is a drag on our economic growth. It is no coincidence that economic growth has decelerated as the growth of Federal debt has accelerated. Each dollar of deficit spending is a dollar that is un-

available for private sector investment and job creation. Each dollar in interest that the Federal Government pays on its debt is a dollar unavailable for public investment in infrastructure, schools, health, or training.

Our giant deficits—\$400 billion this year alone—are the 300-pound gorillas of the credit market. The Federal Government's insatiable need for debt, debt keeps real interest rates high and constrains the Federal Reserve's ability to respond to the current recession. The deficit, through high interest rates, pushes us into a recession, and the deficit, by tying the Fed's hands, keeps us in a recession.

Why in the world would we want to adopt a policy that keeps us from doing something about this?

Senator McCain argues that his amendment is a simple matter of fairness—it takes 60 votes to cut taxes, so why not 60 votes to raise them?

To put the question in that form muddies the issue. The rule is not, as Senator McCain suggests, that it takes 60 votes to provide tax relief. The rule is that it takes 60 votes to do anything that would increase the deficit. That includes spending increases and tax cuts. Our rules not about making it easy to waste taxpayer money. Our rules are about making it harder to increase the deficit and thereby waste taxpayer money.

The No. 1 problem facing the people of this country today is our budget deficit. It is sucking capital out of the economy; it is sucking jobs out of the country; it is sucking funds out of public investment. We have rules in this body that require 60 votes—a supermajority—to increase the deficit. Senator McCain's amendment would gut those rules; it would turn them on their head. For tax legislation, his amendment would require 50 votes to increase the deficit and 60 votes to decrease it. I cannot support that.

The PRESIDING OFFICER. The Senator from Oregon has 1 minute.

Mr. PACKWOOD. Mr. President, I yield back my 1 minute.

Mr. SASSER. Mr. President, parliamentary inquiry? Has all time been yielded back?

The PRESIDING OFFICER. Yes, all time has yielded back.

Mr. SASSER. Mr. President, at this point I raise a point of order that the pending amendment violates section 301 of the Congressional Budget Act of 1974.

Mr. McCain. Mr. President, I move to waive the Budget Act. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator DOMENICI.

Mr. DOMENICI. Mr. President, that is debatable, is it not?

The PRESIDING OFFICER. It is not debatable under the unanimous-consent agreement.

Mr. DOMENICI. Oh, you have a unanimous-consent agreement? Excuse me.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 306 of the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are absent on official business.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 58, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—37

Bond	Helms	Roth
Brown	Hollings	Seymour
Burns	Kassebaum	Shelby
Coats	Kasten	Simpson
Cochran	Lott	Smith
Craig	Lugar	Specter
D'Amato	Mack	Stevens
Dole	McCain	Symms
Garn	McConnell	Thurmond
Gorton	Murkowski	Wallop
Gramm	Nickles	Warner
Grassley	Packwood	
Hatch	Pressler	

NAYS—58

Adams	Dixon	Lieberman
Akaka	Dodd	Metzenbaum
Baucus	Domenici	Mikulski
Bentsen	Durenberger	Mitchell
Biden	Exon	Moynihan
Bingaman	Ford	Nunn
Boren	Fowler	Pell
Bradley	Glenn	Pryor
Breaux	Gore	Reid
Bryan	Graham	Robb
Bumpers	Hatfield	Rockefeller
Burdick	Heflin	Rudman
Byrd	Jeffords	Sanford
Chafee	Johnston	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Wellstone
Cranston	Kerry	Wirth
Danforth	Kohl	Wofford
Daschle	Lautenberg	
DeConcini	Levin	

NOT VOTING—5

Harkin	Leahy	Simon
Inouye	Riegle	

The PRESIDING OFFICER. On this vote, the yeas are 37, and the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The pending amendment would amend the Budget Act in a manner that changes the process by which the budgetary discipline is enforced. Since this matter is within the jurisdiction of the Budget Committee, and this bill was not reported from that committee, the point of order under section 306 of the Budget Act is sustained. The amendment falls.

Mr. DOLE addressed the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order.

Mr. DOLE. Mr. President, I thank the Senator from Arkansas. I will take 1 minute.

A number of my colleagues have very important engagements in their States over the weekend. And I just urge my colleagues on this side and the other side. If we could agree to accept say 30 minutes on any amendment, or if we just agree to take them all, and go to conference, it would be better yet. We would get out of here about 1 o'clock. In any event, we have a lot of requests for an hour and a half, 2 hours and no time agreement.

It seems to me that we can accommodate a number of our colleagues on both sides of the aisles if we could agree to a lesser time, and if you really are good, really understand your amendment, you could describe it in 10 minutes as well as an hour. If you do not understand it, maybe an hour is not long enough.

So, in any event, I urge my friends to accommodate the rest of us, those of us who have to leave—I do not have to leave—and speed up the process.

Thank you.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Has the amendment been reported?

AMENDMENT NO. 1723

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1723.

Mr. BUMPERS. 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:

The United States Department of Transportation reports that 39 percent of the bridges in the Federal-aid Highway System are "structurally deficient" and "functionally obsolete" and 42 percent of the rural interstate highways and 43 percent of the urban interstate highways are rated in either poor or fair condition; and

The Federal Highway Administration estimates that existing highway and bridge systems will carry 65 percent more travel in the year 2009; and

The Federal Highway Administration estimates that a total of \$75 billion would be required annually through the year 2009 from all levels of government to eliminate all bridge and pavement deficiencies; and

The current Federal authorized spending is approximately \$20 billion a year through 1997; and

State and local governments are unable to contribute the \$55 billion annual difference necessary for the projected needs for bridge and pavement repair and upkeep; and

The national economy is currently depressed and faces a devastating period of economic stagnation which the release, over the next two fiscal years, of the \$11.1 billion surplus highway trust funds could help alleviate; and

Upgrading roads and bridges is a sound and vital investment which could result in a dividend of long-range economic growth and improved efficiency; and

Spending trust fund revenues would benefit all sectors of the economy by stimulating industries ranging from manufacturing to service providers; and

Highway spending would immediately stimulate growth in a broad range of the American work force, both skilled and unskilled; and

The spending of \$1 billion on the Nation's transportation infrastructure creates 52,000 jobs while spending \$1 billion on defense creates only 30,000 jobs; and

No additional taxes and no new Federal regulations are necessary to accomplish this goal; and

Delaying road and bridge projects is shortsighted and would mean higher costs to the American taxpayer in the future; and

The General Accounting Office estimates that approximately 1.25 billion hours and 1.38 billion gallons of gasoline are wasted annually due to traffic congestion and the hours spent by Americans in traffic result in both a decline in productivity and an increase in air pollution; and

Americans have already paid for bridge and road improvements through the Federal gasoline tax, which cannot be lawfully spent for other purposes, and therefore deserve these improvements; Now, therefore, be it

It is therefore the sense of the Senate that Congress and the President should declare a state of emergency under the 1990 Budget Reconciliation Bill to authorize expenditure of \$5 billion in 1992 and \$5 billion in 1993, in excess of the allocations that are provided for by law, from the highway trust funds, to create jobs, ease the financial burden on State and local governments, stimulate the economy, and provide a safe and sound transportation infrastructure for our Nation's future.

Mr. BUMPERS. Mr. President, I am perfectly happy to enter into a time agreement.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Conversations will cease in the Senate. The Senate will be in order.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that on my amendment, to which Senator GRAHAM will offer a second-degree amendment—that there be a time agreement on both amendments of 1 hour equally divided.

Mr. PACKWOOD. A total of an hour on both amendments equally divided?

Mr. BUMPERS. Yes.

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

Mr. BUMPERS. Mr. President, my comments will be very brief on my amendment. It is a very simple amendment.

Mr. MOYNIHAN. Mr. President, will the distinguished Senator from Arkansas yield for a query?

May we make a part of the agreement that the amendment of the Senator from Florida be the only second-degree amendment?

Mr. BUMPERS. I amend my request to ask that the second-degree of the Senator from Florida be the only amendment.

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

Mr. BUMPERS. Mr. President, I have been advised that it would be appropriate for Senator GRAHAM to offer his second-degree amendment now so that the time can start running on both of them.

I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 1724 TO AMENDMENT NO. 1723  
(Purpose: To make improvements in providing incentives for increased economic growth)

Mr. GRAHAM. Mr. President, for purposes of submitting a second-degree amendment on behalf of myself, Senator BOND, and Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Florida, [Mr. GRAHAM], for himself, Mr. BOND, and Mr. BUMPERS, proposes an amendment numbered 1724 to amendment 1723.

Mr. BUMPERS. 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:

**TITLE —TRANSPORTATION**

**SEC. . 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 (2), by striking "\$18,303,000,000" and inserting "\$21,800,000,000";

(2) in paragraph (3), by striking "\$18,362,000,000" and inserting "\$21,362,000,000";

(3) in paragraph (4), by striking "\$18,332,000,000" and inserting "\$15,332,000,000"; and

(5) in paragraph (5), by striking "\$18,357,000,000" and inserting "\$15,357,000,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in paragraph (1)—

(A) by striking "\$2,913,000,000 for fiscal year 1993," and inserting "\$3,913,000,000 for fiscal year 1993,";

(B) by striking "\$2,914,000,000 for fiscal year 1994," and inserting "\$3,914,000,000 for fiscal year 1994,";

(C) by striking "\$2,914,000,000 for fiscal year 1995," and inserting "\$1,914,000,000 for fiscal year 1995,"; and

(D) by striking "\$2,914,000,000 for fiscal year 1996," and inserting "\$1,914,000,000 for fiscal year 1996,".

(2) in paragraph (2)—

(A) by striking "\$3,599,000,000 for fiscal year 1993," and inserting "\$5,599,000,000 for fiscal year 1993,";

(B) by striking "\$3,599,000,000 for fiscal year 1994," and inserting "\$5,599,000,000 for fiscal year 1994,";

(C) by striking "\$3,599,000,000 for fiscal year 1995," and inserting "\$1,599,000,000 for fiscal year 1995,"; and

(D) by striking "\$3,600,000,000 for fiscal year 1996," and inserting "\$1,600,000,000 for fiscal year 1996,".

(c) TECHNICAL CORRECTIONS.—Section 115 of title 23, United States Code, is amended—

(1) by striking the heading of subsection (a) and inserting the following new heading:

"SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS.—"

(2) in subsection (a)—

(A) by striking clause (i) of paragraph (1) and inserting the following new clause:

"(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or";

(B) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and"; and

(C) by striking paragraph (3);

(3) in the heading of subsection (b), by striking "PRIMARY" and inserting "NATIONAL HIGHWAY SYSTEM";

(4) in paragraph (1) of subsection (b), by striking "Federal-aid primary system" and inserting "National Highway System"; and

(5) in subsection (c), by striking "152,".

**SEC. . MASS TRANSIT.**

(a) 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 of Transportation after the date of the enactment of this Act, 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 of Transportation, 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.

(b) MASS TRANSIT AUTHORIZATIONS.—Section 21 of the Federal Transit Act (49 U.S.C. App. 1617) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, \$450,000,000 for fiscal year 1992, \$1,950,000,000 for fiscal year 1993, \$1,990,000,000 for fiscal year 1994, \$350,000,000 for fiscal year 1995, \$310,000,000 for fiscal year 1996 and \$1,920,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, \$1,583,000,000 for fiscal year 1992, \$2,055,000,000 for fiscal year 1993, \$1,885,000,000 for fiscal year 1994, \$1,925,000,000 for fiscal year 1995, \$1,965,000,000 for fiscal year 1996, and \$2,430,000,000 for fiscal year 1997, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, \$1,450,000,000 for fiscal year 1992, \$2,125,000,000 for fiscal year 1993, \$2,185,000,000 for fiscal year 1994, \$1,325,000,000 for fiscal year 1995, \$1,265,000,000 for fiscal year 1996, and \$2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, \$160,000,000 for fiscal year 1992, \$305,000,000 for fiscal year 1993, \$265,000,000 for fiscal year 1994, \$325,000,000 for fiscal year 1995, \$385,000,000 for fiscal year 1996, and \$20,000,000 for fiscal year 1997, to remain available until expended.

**SEC. . AUTHORIZATIONS SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS.**

Any amount authorized to be appropriated pursuant to this title is subject to the availability of appropriations.

Mr. BUMPERS. Mr. President, my amendment, the first-degree amendment, is a sense-of-the-Senate resolution. I had hoped that at least the sense-of-the-Senate resolution would be accepted by the floor managers, but apparently that is not to be. But here is the simple proposition.

I personally thought that President Bush missed a golden opportunity during his State of the Union Address in not doing exactly what Senator GRAHAM and Senator BOND and I are trying to do—accelerate highway construction. We are in a recession. The unemployment rate is the highest it has been since 1985. We are dealing with a bill here providing for tax credits, additional depreciation for business, and first-time home buyers, and the only thing in that bill that is calculated to put people to work right away is the amendment that would provide a \$5,000 tax credit for first-time home buyers.

Here is an amendment that complies with what Dr. Reischauer said to the Budget Committee about the criteria we should use in how we stimulate the economy. He said, first of all, that it ought to be near term. We ought to be able to spend the money immediately and create jobs immediately.

No. 2, it should have a long-term effect, especially on our infrastructure.

And then he said highway construction meets both tests. How many times have you heard it said in this body in the last 30 to 60 days that for every \$1 billion we spend on highways, you get somewhere between 50,000 and 60,000 jobs? I dare anybody in this body to tell me another single dollar that you can spend where you create more jobs with that dollar than you do with highway construction and repair.

These figures, obviously, could vary. But, essentially, for every \$1 billion you spend on highway construction, you generate 52,000 jobs throughout the community, not just on highways, but equipment manufacturers, engineers, and a wide range of trades.

If you just do highway repairs, which we really could start immediately, you create thousands of jobs. Mr. President, compare that with \$1 billion spent buying weapons in the Defense Department: 30,000 jobs. In short, there are between 20,000 and 30,000 more jobs per \$1 billion spent on highways than on weapons. I am not making the argument pro or con about the necessity of purchasing weapons. I am simply drawing the comparison to say that this is the fastest, most efficient way to get people employed.

There are an awful lot of projects in this country that are ready to go right now, and an awful lot of them are sitting waiting for Federal money. There is over \$11 billion in the highway trust fund right now. I can tell you, I have talked to my highway department, and Senator GRAHAM and Senator BOND have talked to theirs, and I promise you, every highway director in the country will tell you: Free up some of this money, and I promise you that we will create the jobs.

Why would anybody vote against my sense-of-Senate resolution? It only seeks to create jobs with trust fund money that cannot be spent for anything else. I am going to support Senator GRAHAM's amendment and Senator BOND's amendment, which makes this mandatory. My sense-of-the-Senate resolution says that the Federal Highway Administration ought to spend an extra \$5 billion in 1992 and an extra \$5 billion in 1993. The Graham-Bond amendment provides for a \$3 billion increase in fiscal year 1993 and fiscal year 1994, and it makes it mandatory to spend this money.

Maybe this is more realistic, but mine is not binding. It would simply urge them to spend up to \$5 billion in each of the next 2 years.

Mr. President, here is another problem. I hate the word "infrastructure." When I first became Governor, staff members started talking to me about infrastructure. It was always offensive. I still hate it. But highways, which make up a part of this country's infrastructure, are what make things go in this country.

The point is that more than 576,000 bridges in this country—39 percent of

those bridges—are functionally and structurally not capable of meeting the demand for which they were built. In my home State of Arkansas, 37 percent of our bridges are deficient, slightly below the national statistic of 39 percent. Functionally obsolete bridges are incapable of performing the way they are supposed to means they simply cannot handle the traffic demand. And 91,000 bridges fit into the category of functionally obsolete.

In 1989, 265,000 miles of our highways were below engineering standards for cost-effective travel; coupled with 3 billion man hours a year lost due to congestion. You calculate that, Mr. President. If that is \$5 an hour, and it would certainly be a lot more, you are talking about \$15 billion lost just due to congestion because we have not invested wisely in our nation's roads; 41.8 percent of the rural interstates—think of that; almost half of the rural interstates—42.6 percent of the urban interstates, almost half of all of the interstate highways in this country, are rated by the Federal Highway Administration as in either fair or poor condition.

After the 1991 highway reauthorization bill, we patted ourselves on the back and went out and said that we appropriated or authorized \$151 billion in infrastructure spending over the next 6 years, although only \$120 billion of that is for highways and the balance is for mass transit. But the Highway Administration says: We need \$75 billion a year through the year 2009, just to eliminate all pavement and highway performance deficiencies. So we are only falling \$55 billion short for the next 17 years in bringing our highways and bridges in this country up to satisfactory condition to eliminate the problems I have just discussed.

So, Mr. President, consider the man-hours we are wasting and how that translates into money that is lost forever because of congestion. Consider the cost to the country in trauma and misery and suffering and loss of revenues to the U.S. Treasury, because we are sitting on something called a highway trust fund and refusing to spend it. The argument is going to be made—I anticipate this right now—that if you put another \$3 billion to \$5 billion out there each year for the next 2 years, the price of the highway construction is going to go up, because it is more than the contractors can afford to handle.

Mr. President, when you consider the fact that the construction industry in this country has been on its hunkers now for 2 years, and tell me that they cannot handle an additional \$3 to \$5 billion a year in highway construction, that is absurd. Of course, they can handle it, and they can handle it on a competitive basis.

The argument, theoretically, makes sense. As a practical matter, it makes

no sense. You either want to improve the highways and create jobs, or you do not.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, will the Senator yield me 2 minutes?

Mr. MOYNIHAN. I yield 2 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from New York and the Presiding Officer.

I intend to support the sense-of-the-Senate resolution offered by my friend from Arkansas. I think that is a worthy endeavor. I said when this whole process started out I would be voting against the amendments here regardless of how worthy those amendments were and, therefore, while I am very sympathetic to the amendment that I understand is to be offered by my friend and colleague from Florida, my friend and colleague from Florida and this Senator, among others are still on this floor, because we felt we were not fairly treated with regard to the highway bill. So, under different circumstances, I would be supporting the amendment offered by the Senator from Florida.

I only say once again, as I have said three or four times during this debate, the key issue here is to act on this tax bill and not have it burdened down with amendments, even worthy amendments. The March 20 date is approaching very rapidly. I do not see how, even if we finish the bill now, we are likely to have a successful conference with the House and then have that conference back and reported favorably out of both the House and the Senate to meet the deadline imposed by the President.

I simply say, Mr. President, that I will be voting against amendments regardless of their worthiness. There is another place and another time for all of these amendments without holding up this very important measure that I think is essential that we get reported and laid on the President's desk by the deadline of March 20 that he gave us.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, I have offered a second-degree amendment to the sense-of-the-Senate proposal of the Senator from Arkansas. I would first like to briefly describe the second-degree amendment and then to give some editorial endorsement for it.

The amendment would do the following: One, it would accelerate the ability of our appropriators to provide additional funding for highways and mass transit in fiscal years 1993 and 1994. It would do so—and I am using this chart to illustrate the highway component. Currently, in 1995 we are proposing an \$18.5 billion obligation ceiling on high-

ways, and in 1996 a \$19.2 billion obligation ceiling on highways. What I am proposing to do is to take \$3 billion from each of these years and move it forward to fiscal year 1993 and fiscal year 1994, as you can see, using the current red bars, which are the obligation ceilings that are in the 1992 Surface Transportation Act. That act is backloaded; that is, it proposes that we spend more transportation money both for public transit and highways during the last 3 years of the 6-year cycle than in the first 3 years. I am proposing that we adjust that by creating a greater capacity to build highways, repair highways, move forward with our public transit system in years 1993 and 1994.

The decision as to whether to use this authority is left with the Appropriations Committee. It will have its continuing responsibility to decide whether to take advantage of the opportunity that we are going to make available.

Beyond this, we are doing some other substantive things. For reasons that I think were largely reasons of oversight, an important provision which has been in the highway bill for the last decade or more called advance construction or accelerated construction was deleted from the 1991 Surface Transportation Act. What did that provision allow? That provision allowed a State that had a project that was eligible for Federal funding but which did not have, at that point, the Federal funds in the specific fiscal year to support that project, to commence construction with its own dollars, 100 percent State-funded, and then, when it reached the fiscal year in which there was Federal capacity available, it could be reimbursed up to its appropriate Federal share. It does not add any additional money to the Federal program, does not add any money to any individual State's obligation, but it does allow a State to start earlier to get the projects underway. That is particularly important in the structure of this amendment, because I am not proposing to add any money to fiscal year 1992, in part in order to avoid a budget point of order. But what I hope is that States, seeing the capacity that is going to be available in 1993 and 1994, would begin to move this year to take advantage of that by using the reinstated accelerated construction procedures.

Also, the Federal Urban Mass Transit Authority has asked for some clarification as to whether a provision in the 1991 Surface Transportation Act related to the temporary waiver of matching fund was intended to apply to public transit as well as highways. This would clarify it. That is the case, again, to facilitate a State's ability to start as rapidly as possible with public transit projects.

Mr. President, the goal of this program is to be able to create as many

jobs as possible as quickly as possible in an area of activity that is fundamental to America's long-term economic competitiveness. If this program were to be adopted, at the multiplier of 35,000 to 60,000 jobs created by every billion dollars of expenditure in transportation, we would have the potential of creating 250,000 additional jobs in 1993 and again in 1994 beyond those which would currently be available.

Mr. President, that is a brief summary of what the second-degree amendment is.

Now, what are some of the reasons for this? First, infrastructure is a fundamental part of any nation's sustained economic growth. I will be referring to it later in the debate, but I bring to the attention of the Senate the report by the Competitiveness Policy Council that was published on March 1, 1989, entitled "Building a Competitive America." On page 2, there is a chart which indicates that investment in infrastructure by America reached a peak of approximately 2.1 percent of gross national product in the late 1950's, has been declining since then, and over most of the decade of the eighties has been in the range of 1.25 as a percent of gross national product. We have been reducing significantly our Nation's investment in infrastructure, and that has been one of the key reasons that we have seen a gradual reduction in our productivity.

Second, transportation has been consistently underfunded during the last decade, and the 1991 Surface Transportation Act will continue that underfunding. The level of funding in the current Surface Transportation Act will assure us that we will have worse roads, worse public transit systems in 1997 than we have today. We need to reverse that pattern of disinvestment.

Third, transportation expenditures, as the Senator from Arkansas has indicated, are quick-starting, they are labor-intensive, they are one of the best generators per dollar invested of a job created quickly. That is what I think we are largely about today, to be able to tell the American people that we have made some constructive contribution to the alleviation of this recession. I believe this is one of the most powerful ways that we can do so.

Next, there is a statement made that, as a result of the 1991 Transportation Act, we have been accelerating the amount of transportation spending. Transportation spending is a partnership of the Federal Government and the States. So to answer the question, Are we increasing our national effort, standing still, or going backwards, you have to look at the combination of the two.

As the Senator from New York pointed out in his debate last year on the Surface Transportation Act, one of the inhibitors in this whole area is that we do not have very good data. But I

have gotten data from five States as to what their relative Federal and expected State expenditures are going to be.

And just to use, as illustrative, Arizona, the red bar being the State's bar, as you can see it is in a sharp decline. Substantially more than the modest increase in Federal funds. And so Arizona, for one State, is scheduled to spend significantly less money in 1992 and 1993 than it spent in 1990 and 1991 on transportation.

That is a pattern that you will see across the States, and the reason is because the States have been hammered with this recession that has affected their transportation funds and their ability to construct transportation.

So one of the arguments for this proposal is it will help redress some of the problems which the States are facing in their own ability to finance transportation.

Mr. President, anticipating an issue that is going to be raised—that is can this money be spent, is there the ability of the States, within the constraints in which they are operating, to match this additional \$3 billion in 1993, \$3 billion in 1994 for highways, and \$1.2 billion in each of the years for public transit—Senator LAUTENBERG held a hearing of his appropriations subcommittee recently on that very issue. Let me report some of the testimony that was given there.

The question was: Can State and local agencies spend the money? Are projects ready to go? The answer to both is yes. Organizations representing highway transit and aviation sectors have testified to the ability of the State and local Governments to spend the money wisely and quickly and on projects that are labor intensive.

The American Association of State Highway Transportation Officials [AASHTO] reported the results of the Survey on Fiscal Year 1992 Obligation Authority Usage and Capability to Utilize Additional Fiscal Year 1992 Federal Funds. Forty-seven States were surveyed. The States indicated that they can spend an additional \$3 billion this year in fiscal year 1992, representing 1,100 additional highway and bridge projects. These projects are on the shelf, ready to be built.

The American Public Transit Association argued that the transit agencies need and could quickly spend the additional \$1.2 billion called for in this startup amendment and that would support 64,000 additional jobs.

Mr. President, I believe that we are going to be tested not on process but on performance. The question the American people ought to be asking the Congress and the President is, what have you done to contribute to getting us out of this recession without adversely affecting our opportunity to be competitive over the long run?

Mr. President, the Competitiveness Council that I cited earlier, in answer

to the question, what should be the framework for action, contained this statement:

The council believes that the right strategy for the Nation's competitiveness, and in this period of economic recession, the council believes that the right strategy is devise a program to depress the underlying weaknesses in the economy in ways that could promote short-term recovery. For example, an acceleration of Government spending on needed infrastructure projects would have desirable effects both immediately and over time.

Mr. President, I come from a State where you can build highways 12 months out the year. I have a sense of urgency to get on with it because we also have 9 percent of our people unemployed, some of whom would be benefited if we could accelerate these important transportation projects.

There are other Members in this body who come from States that do not have the kind of opportunity and, therefore, I believe are even under a greater sense of urgency to make the decision that we are going to accelerate these important constructions, do it now, get people to work as rapidly as possible so that we can make this contribution towards the alleviation of the recession.

Mr. President, I yield the remaining time to my colleague from Missouri, Senator BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair and I thank my friend from Florida.

I am pleased to be a cosponsor of the Graham amendment. To me, it takes exactly the right approach to help our economy and our long-term investment problems.

In my State of Missouri, highways are our lifeline. Missouri's economy rides on its highways. As my good friend the Senator from Florida has explained, this amendment would accelerate spending over the next 2 years for highways and mass transit by \$8.4 billion. We would amend the obligation ceiling levels set by last year's surface transportation bill. Highway program funding would be increased by \$3 billion for fiscal years 1993 and fiscal years 1994; mass transit funding would be increased for each of those years by \$1.2 billion. We would pay for these increases by reducing fiscal years 1995 and 1996 levels by equal amounts.

Mr. President, there are several compelling reasons Senators should support our amendment. There is a crying need for this country to increase its long term economic investment. Our economy is now paying the price for our reliance on the short term, quick fix which gets us over today's crisis, only to make tomorrow's so much worse. Like Aesop's famous fable, we are paying the price of acting like the grasshopper instead of the ant.

(Mr. GRAHAM assumed the chair.)

Mr. BOND. As was pointed out earlier by the Senator from Arkansas, the fact

that we have had an economic downturn means that there are people needing work and ready to go to work, and we can get the best return for our dollars by moving now.

A key component of long term investment is infrastructure—roads, bridges, airports, mass transit, rail. An economy simply cannot function without a well-maintained and interconnected transportation infrastructure—it is the oil which keeps all parts of our economic system running smoothly. Our backlog of infrastructure projects, both new and old, is in the tens, even hundreds of billions of dollars. We are seeing the direct effects of this disinvestment as businesses and jobs leave or cannot be attracted to both our rural and urban areas because inadequate roads prevent them from expanding or relocating.

Mr. President, I have spent most of my public service working on economic development and jobs. We have pressing needs in rural areas of our States where employment opportunities no longer exist. We are trying to bring jobs into these communities to stabilize our economy and the social structure of our State.

But I will tell you one thing, in talking to the economic development specialists today, they will not consider a town that does not have a four-lane highway. Without four lanes, you just do not get the jobs, and you see a further deterioration of our rural communities. We are trying to address this problem in Missouri by making construction of four-lane highways to all communities with more than a thousand people a top priority.

Our amendment would help this severe problem by providing more Federal dollars on an accelerated basis.

A second important reason to support our amendment is job creation. As the occupant of the Chair stated earlier, it is estimated that this increased spending would result in 460,000 new jobs. Our economy needs these jobs now not later—and the infrastructure improvements they will create. This is money invested to ensure our country's economic growth for the future, not money wasted on the whims or fads of the present.

Finally, Mr. President, our States need this additional money because they are being shortchanged by a terrible mistake contained in the highway and mass transit bill. The legislation provides almost \$500 million in funding for a new courthouse in New York. Now, I am not opposed to new courthouses. I think they are important. However, I am opposed to paying for one at the expense of urgently needed highway funding for all 50 States. My understanding is that money for this courthouse has reduced each State's fiscal year 1992 funding by 5 percent—a substantial amount. My own State of Missouri will lose \$18 million. I think

this is terrible oversight which must be remedied as quickly as possible—it has now been almost 4 months since the bill was signed into law. This amendment can provide additional funds to help make up the shortfall while we wait for corrective action on the courthouse funding.

There has been a question raised as to whether States would be able to afford to go forward, would they be able to match these moneys? As has been pointed out, since this starts in 1993, many States, States with the greatest need, my State and other States, would clearly be able to.

There is also a provision in this measure which provides for the advance funding which is vitally important to get these projects moving when they are vitally needed.

The choice is clear. We can choose between creating jobs and investing in our infrastructure—roads, highways, mass transit—we can do it now or we can stand by and wait for 2, 3, 4 years to begin work on many of these projects.

With the issue so clear, Missourians who cannot find construction work in my State will not understand if this amendment fails. And I suggest residents in other States may face that same concern.

I strongly urge my colleagues to support this amendment. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield such time to my colleague, friend, collaborator, the Senator from Idaho, as he may require.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. I thank the distinguished Presiding Officer, and I thank my distinguished chairman of the Transportation and Infrastructure Subcommittee.

Mr. President, when the distinguished Senator from Florida mentioned this to me last night, on the surface it sounded like, well, that is not too serious a problem. It does not violate the Budget Act. It really does not upset anything. But on reflection over the evening—and I thought through what this does for us in looking at the charts over there, basically what we are talking about doing is ramping up spending for 2 years—we will ramp up spending for 2 years, then we will have to reduce the spending in the future 4 years from now.

So, it will put an increased pressure on hiring people, on ramping up.

It is true we might spend more money under this amendment, but whether we get more roads or good, sound, even-flow price for construction of these roads through the bidding process is another matter.

I know I do not need to tell the distinguished occupant of the chair, as a

former Governor of his State, what happens with the construction infrastructure. I am talking about the private sector side, the construction companies themselves. They simply cannot absorb all this money.

I want to give some numbers here. In fiscal year 1991, we authorized \$14.1 billion, the year we just came out of. The Appropriations Committee added an additional \$2 billion in spending authority.

In fiscal year 1992, under the new transportation bill, we authorized \$18.7 billion, a \$3 billion increase in the first year. And our bill adds another \$2 billion for fiscal year 1993.

That is a dramatic increase in spending. It is dramatic. It is a one-third increase in spending. What I am hearing in my office is that the States are having a difficult time raising the needed revenue to make the match. I think we should not overlook that.

CBO revenue estimates add another dimension, when looking at this amendment. Using the new revenue estimates based on lower fuel tax revenues, we could trigger the Byrd amendment which would require automatic reductions in highway spending sometime in 1995 if we authorize higher spending in 1993 and 1994. In my view that would not be a help to the overall program.

I would just say I have the greatest respect for my colleagues who have offered this amendment. I know their hearts are in the right place. They want to help get the roads built. They want to put people back to work. But I think overall, what we have done in our transportation bill is provide for an even-flow ramping up in the private sector construction industry, allowing the industry to make good bids so we get more highways per dollar.

This transportation bill is just that. It is a transportation bill. Oftentimes we call these things jobs bills in the political terminology. But in the sense of the economy of the country we are taking money from one part of the economy and putting it in transportation.

So it is true people work in the construction industry to build highways. But they probably would be working in some other industry if we were not taking capital out of the economy through fuel taxes and funneling that capital into transportation.

We have a good, sound program. It gradually increases the spending. This amendment—though I know its authors have the noblest of intentions—would only increase spending in the short term, cause a big pressure to spend this money whether it was as efficiently spent, as uniformly spent, as wise a use of these dollars as we provide in current law—and then turn right around to ramp back down, hit the Byrd amendment and have layoffs in the construction industry because of the slowdown of the dollars. This on-

again, off-again spending is in my view just not a sensible way to do it.

I think that is all I have to say, Mr. President, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my distinguished friend states that he has said all he has to say. I would like to suggest that that is all there is to be said. He has made it very clear. The Congress has just passed epic legislation in the field of transportation—the first new transportation legislation in a generation.

Slowly, this is being understood. Slowly we are saying this money is not to be consumed as if it were a free good, the only object of which is to get the benefit of the consumption. This money is an investment, meant to pay off. It is meant to take a sector, transportation, where productivity has been growing since 1979, according to the Council of Economic Advisers, at the rate of 0.2 percent per year. That is a medieval rate. It takes 350 years to double. That is what this bill will try to put an end to.

I was pleased to read in this morning's New York Times a front-page story about New Jersey, New York, and Connecticut, focused on New Jersey. The headline was, "New York Region Concludes: Don't Expand Transit; Fix It." It says:

The theme of this effort is that the region's networks of roads, railroads, bridges and tunnels is essentially complete. The challenge to transportation planners in New York, New Jersey, and Connecticut is no longer what it has been for the last 200 years, building new routes across an ever-expanding megalopolis. Now, officials in Albany, Trenton, and Hartford say, the task is to build more efficiency into what already exists.

This is our theme: Efficiency, efficiency, efficiency.

Mr. Thomas Downs, the Transportation Commissioner in New Jersey said:

We can no longer build our way out of traffic congestion. We must instead repair, modernize and better manage our existing system.

I would like, Mr. President, to read from the original text of our bill which begins with a statement of principles, in which it says that the enormous waste and delays associated with the Interstate Highway Program would be no more; that we were out to produce efficiency and productivity and cost accountability. And that is what we did. Not by spending less money. We are spending more. The specific declaration of policy, section 2 of the bill, says:

The National Intermodal Transportation System—commonly known as NITS—must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth and accountability.

Practices that resulted in the lengthy and overly costly construction of the Interstate

Defense and Highway System must be confronted and ceased.

You do not get language like that in our legislation often. That is a bill that came out of this Congress, the Senate, with only 8 votes in opposition: nearly unanimous, with that kind of language.

Our bill did not lower spending. To the contrary, it increased it greatly. And it directed spending in a different direction. Last year, fiscal 1991, the authorization for the Federal program of title I of the Transportation Act came to \$13.5 billion. For fiscal 1993, we have authorized \$20.5 billion, half again as much.

No, Mr. President, there is a problem which is that although the President in his State of the Union Message spoke glowingly of the Intermodal Surface Transportation Efficiency Act, the very next day his budget cut \$3.6 billion from it. If there was someone who wanted to come to this floor and say we have a sense of the Senate that the moneys in the trust fund for the next fiscal year for this program, for transportation, should be fully provided, I would welcome that. But here we are with a budget that has \$3.6 billion less than we have authorized, and we are going through the fantasy of acting like we can get more.

I can only hope, Mr. President, that there are not too many citizens watching us on C-SPAN today. Here we are with funny money making meaningless gestures or to the degree they have any meaning, they are ominous.

If this bill were to pass, I would certainly not want to be one of the class 2 Senators who in fiscal 1996 will find there is no money, that their State transportation programs are closing down because we spent the money earlier. And if we spend it earlier, we will spend it badly. Mr. President, you do not throw money at highways and transit unless you want to waste it. That is what we said in our statement of principle: Stop it; get some productivity out of it.

I would say, Mr. President, that, yes, there are some regions in the country where the Sun shines most of the year and they can build most of the year, and that is fine. But there are no grounds for them diverting moneys from parts of the country where it snows. In the end, this will be the result.

If we should put this amendment on this bill, and I hope we will not, we will very happily add to our conference on this bill the Committee on Environment and Public Works—Senator SYMMS, myself, and our beloved chairman, Mr. BURDICK—and the Banking Committees as well. We will be a conference of 90 before we are through. And this is supposed to be done by March 20.

Mr. SYMMS. Mr. President, I ask the distinguished chairman just to yield to me for a point.

Mr. MOYNIHAN. I will be happy to yield whatever time he desires.

Mr. SYMMS. I misspoke earlier and I want to correct it. I said this amendment would trigger the Byrd amendment. The CBO estimates, because of the slowdown of the economy and reduction in fuel taxes accruing to the trust fund, indicate the Byrd amendment will be triggered in 1995 under the current outlays. If this passes, it will be triggered in 1994.

Mr. MOYNIHAN. The Byrd amendment—if I may say so for clarifying purposes—refers to Senator Harry Byrd, our former esteemed colleague on the Finance Committee. Will the Senator agree that the Byrd amendment cutting back outlays automatically would come into effect just in time for the next downturn in the business cycle?

Mr. SYMMS. Probably so.

Mr. MOYNIHAN. Just in time to take a slight dip and make it a real plunge. Please, do not do this. We passed a bill we can be proud of.

Mr. President, I ask unanimous consent to print some of the statements about this legislation in the CONGRESSIONAL RECORD. These are from the Washington Times, a very fine, fascinating article by a former member of the Reagan administration, Donald Devine, entitled "On the Road to Efficiency"; a long editorial in the Wall Street Journal which had been rather disparaging of this bill thinking nothing would come of it, and then we passed it and to Senator SYMMS' and my considerable gratification, the Wall Street Journal said, wow, they are serious; they are talking cost efficiency; they are talking productivity; they are talking accountability.

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

[From the Washington Times, Feb. 10, 1992]

ON THE ROAD TO EFFICIENCY

(By Donald Devine)

Wonderful irony: Woodrow Wilson's quiet revolution in American politics may be ending at the Woodrow Wilson Bridge. For Wilson is the father of federal-government planning in America, and his philosophy is running out of steam over the inability of his powerful national government to build a modern, upgraded bridge.

The counterrevolution is being led by an unlikely hero. Sen. Daniel Patrick Moynihan has always been the most interesting Democrat in Congress, and now he is the most courageous. He has faced the most important public policy dilemma now before those honest and serious enough to recognize it—that there is not enough federal money (even in the most solvent trust funds) to finance essential projects, much less all the good things for which people might wish.

Mr. Moynihan stared at the unsettling fact that there are 250,000 unsafe bridges (and who knows how many roads) in the United States, and that even the Highway Trust Fund cannot support their repair. For members of Congress know they can cut ribbons for new roads but local officials or bureau-

crats will get the blame for collapsing bridges needing repair.

In one of those rare acts of legislative responsibility, Mr. Moynihan insisted that the 1991 Highway reauthorization bill seriously address the problem. He first removed the U.S. prohibition for tolls being collected on bridges or roads built with its funds; and, second, allowed private firms into the highway business.

The former allows the local officials who will get the blame to protect themselves by obtaining a reliable source of funding for necessary repairs. The latter provides a means for the states to leverage their funds by lending up to 85 percent to private firms to build and manage toll roads that would eventually pay the bonds for roads that would revert to the state.

For the first time, states would be allowed to lend federal funds to private companies to build or repair roads or bridges by charging fees for their operation. As the accompanying table shows, by lending states can highly leverage their funds. At a \$85 billion federal and \$15 billion state expenditure, the value of roads built can be increased from \$100 billion to \$185 billion because they can reinvest the funds repaid from the private managers.

While market purists may object to government funds at all, this first step in radically reforming this long-time government monopoly business gets a private nose into the state's tent for a change.

Private operation of toll highways at the state level is already a reality. Former Reagan administration official, Ralph Stanley's granddaddy private tollway in Northern Virginia is on schedule. Not only will a necessary road be built and revert to the state, but it will be more user-friendly. Good old private initiative will remove the toll barrier for regular users, utilizing a decal on the car window that will automatically charge customers (no longer called commuters) for their trips.

Private revolutions are taking place all over the transportation business. Communities are demanding they be allowed to build new airports, and airlines are requesting authority to create a market by trading landing rights—so air travel can really be privatized.

Even the stodgy railroad business is having second thoughts about bigger-is-better. Burlington Northern Railroad is selling unprofitable branch lines to small businesses that are making profits. Local communities, too, are running commuter operations more efficiently than earlier federally supported operations. Somehow, the little guy can make it where the mammoth corporation utilizing government regulatory protection cannot.

And hold your hats for this. The American Trucking Association is making noises to buy all of the state toll highways in the East for itself. Sick of paying ever-higher taxes with no control over operations, ATA President Thomas Donohue said about his idea: "If we pay for the roads, we might as well own them."

Mr. Moynihan pronounced the 1992 Surface Transportation Bill as the beginning of the "post-Interstate era." More accurately, it is the end of the idea that big government can plan big projects. Highways and mass transit, two of the first sectors with massive government regulation, are the first to begin the long road back to the states, communities and private ownership. Being so vital to commerce, transportation is one of the first to feel the pull of decentralizing market forces away from government bureaucracy.

Perhaps the most interesting thing about this new era is that it was launched quietly.

Moynihan snuck his provision into the bill at the last moment so that it survived congressional and Office of Management and Budget vetting. Even after the bill was passed, these two centers of obstruction did not know what it contained.

If the normal sentinels of the legislative process had been alert, there probably would have been no surface transportation revolution. Congress seems to act best when it does not know what it is doing. In this case, it literally ended the idea of a national government transportation policy, and no one knew until now.

The ultimate put-down to libertarian-conservatives used to be: "What do you want to do, sell the roads?" As a long-time sufferer on the Woodrow Wilson Bridge each morning, I can now say without hesitation, "Yes."

[From the Wall Street Journal, Dec. 17, 1991]

A PRIVATE JOBS BILL

President Bush has the opportunity to reshape America's transportation policy when he signs a \$151 billion, six-year highway and mass-transit bill in Dallas tomorrow. Members of Congress were so busy using the bill to drag some pork back home that they barely noticed that it also included dramatic incentives to involve the private sector in rebuilding America's infrastructure.

The bill makes it federal policy to encourage private-sector financing of transit projects. For the first time since federal aid to highways began in 1916, states will be allowed to put tolls on existing and new federally funded bridges, tunnels and roads (other than interstates). The bill also allows all such facilities to be privately built and owned if a local public authority agrees. Private investors can qualify for federal matching grants for up to 50% of the cost of new roads or to rehabilitate bridges, roads and tunnels. Up to 80% federal participation will be allowed in building new private bridges or tunnels. In addition, toll revenue from the projects will count toward the required local share of transportation projects.

If properly implemented, the bill will have far-reaching effects. Carl Williams, the assistant director of California's transportation agency, says the law allows "states to lend federal bucks to private entities to build transportation facilities. If the states want to do this, it will blow the door off this industry." John P. Girardo, a former general counsel to the President's Commission on Privatization, says the new law will "encourage many states to explore selling their bridges, roads and tunnels as well as encourage them to invite private-sector financing."

The nation badly needs such investment. When government at all levels began neglecting basic responsibilities in the 1960s in favor of new welfare and health programs, the nation's infrastructure suffered. Factoring in depreciation, the rate of nonmilitary investment in public works in the 1980s was only half that of the 1970s and just one-fourth that of the 1960s.

At this point, many state and local governments know they'll never get enough money out of the tax base to fix what's broken or add what's needed. They very much need private capital and innovative solutions. Traffic congestion, for example, might be eased with the off-peak pricing that a toll road allows. Even before this transportation bill passed, many states had already started experimenting with privatization.

Last year California contracted with four private companies to build \$2.5 billion in new toll roads. Ground breaking for a 14-mile, private toll road near Dulles Airport in Vir-

ginia is set for the spring. Trucking associations are actively exploring the idea of purchasing and operating the New York State Thruway and the Massachusetts Turnpike. New technologies will let drivers use both new and old toll roads without stopping and pulling change out of their pickets. In Texas, bar-coded transit passes allow motorists to drive through toll gates at up to 45 mph.

So how did such a good idea get through Congress? Once the Members had stuffed 472 pork-barrel projects into the bill, many lost interest in its details. Democratic Senator Daniel Patrick Moynihan of New York then took the opportunity to insert a role for the private sector, which would allow states to leverage their federal grants into building additional projects, an idea that made both economic and political sense.

Sam Skinner, the former Transportation Secretary who is now George Bush's Chief of Staff, deserves credit for anticipating the role the private sector could play in rebuilding America. In February, he hoped the transportation bill would "embrace the private sector as a full partner of the public sector and as a for-profit player. We are saying to the investment community, come on in. There's money to be made in transportation."

But the private sector will participate only if the Bush administration clears away the roadblocks to private involvement. Highway bureaucrats are going to resist; some are already vowing to micromanage any private-public partnerships out of existence. Regional planning organizations are notoriously hostile to private-sector involvement.

We certainly hope that the Bush administration gives this initiative the push it deserves. The President has been touting the transportation bill as a jobs program, but it'd be nice to think that something more innovative was possible than just pouring concrete into pork-barrel projects. And certainly Senator Moynihan deserves credit for having the imagination to embrace a financing strategy that his own state needs desperately. The road to better infrastructure through private financing and management now exists on paper. The job now is for the political leadership to, well, lead.

**LEVERAGING FEDERAL HIGHWAY FUNDS USING PRIVATE TOLL ROADS**

(Before and after the 1991 highway reauthorization bill; in billions of dollars)

	Before	After
Federal funds .....	85	85
Direct Federal and State spending .....	100	15
State lending/private to repay .....	0	85
State reinvest private repaid funds .....	0	85
Total value of state roads .....	100	185

Note: Example uses conservative assumptions for the new bill; e.g., reinvested funds are not counted and interest payments are excluded, both of which could increase the funds states could reinvest in roads and bridges.

Mr. MOYNIHAN. That is not this. This is throwing money at it; create jobs and that is the end. We have doubled, we have increased by about half the spending here. The administration wants to go back to where we were. We want to stay where we are. This fantasy of more—if it is no more than a fantasy there is no harm, but should it ever become law, we will rush to spend money in the Sun Belt and that just bids prices up. And then under the Byrd amendment, under our rules, under the trust fund reality, spending will go down about 3 years from now just when you need it.

That, Mr. President, is not transportation planning. That is not the spirit of the ISTEA. If I could make this point, the Intermodal Surface Transportation Efficiency Act comes out as ISTEA and is being called "ice tea."

Let us leave well enough alone. Let us not disturb a job well done. Let us ask the administration to put the full funding in this coming fiscal year, in the budget we are now putting together, for the program. Let us not delude ourselves that we can get more than that. It is already the biggest public works program in history. Can we not let well enough alone and not pretend that we did not even know what we did?

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). Who yields time?

Mr. MOYNIHAN. I further apologize for the case of laryngitis and the flu which I hope will go away now that the daffodils have arrived.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining to our side?

The PRESIDING OFFICER. The Senator from Florida is advised that the proponents of the measure have 2 minutes 11 seconds; the opponents have 10 minutes. The Chair will simply advise those managers of the time that there is no rule, requirement or mandate that all of the time be used and you would not be penalized if you chose to yield back time.

Mr. GRAHAM. I would like to preserve our time to conclude on our second degree and first-degree amendments. So we will defer until those who are in opposition have had an opportunity to make a statement.

The PRESIDING OFFICER. If no Senator yields time, the clock will equally run on each side.

Mr. BUMPERS. I wonder if the Senator from New York is prepared to yield back his time? We have 2 minutes left. The Senator from Florida wanted 1 minute and I wanted 1 minute.

The PRESIDING OFFICER. One minute 40 seconds remains.

Mr. GRAHAM. Mr. President, just briefly to respond to some of the objections that have been made, first, what are we about? Here is what the President of the United States said when he signed this bill:

This bill keeps America on the move and helps the economy in the process but really it can be summed up in three words: Jobs, jobs, jobs.

That is how the President of the United States described this bill. That is what this amendment is intended to do, is create jobs, jobs, jobs when they are most needed.

Second, will this increase the cost of highway and transit construction? The fact is we are going to spend less on highways and transit this year as a result of the 1991 act and the recession

that has racked our States than we spent in the last 2 years. This modest increase would help us having to discharge people who are currently employed in construction.

Third, there is no interstate competition here. No State gets a dime more than it would have otherwise received. We use the same formulas that are in the 1991 transportation act. All we are doing is trying to use the money more efficiently when we need the jobs desperately to help us get out of this recession.

I yield the remainder of my time to the Senator from Arkansas.

The PRESIDING OFFICER. All the time has expired for the proposers of the amendment.

Mr. MOYNIHAN. Mr. President, I yield a minute to the Senator from Arkansas.

Mr. BUMPERS. I thank my distinguished friend from New York.

Mr. President, I have a slight disagreement with my friend from New York. I wish everybody in America was watching C-SPAN and watching this debate. We have been on this bill most of this week, and in my opinion, we will be on it most of next week. We have told the American people we are going to use this bill to jump-start the economy and get us out of this recession.

Senator GRAHAM'S second-degree amendment is a simple opportunity to use \$3 billion a year to create 400,000 jobs, the fastest way possible. This is money that cannot be spent for any other purpose except highways, and it will create 400,000 jobs. If we cannot approve this small amount compared to the \$60 billion to \$80 billion, we will spend in this bill that is not likely to generate many more jobs, then we are not serious about creating jobs.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I cannot let that pass. I have to say to my friend from Arkansas I do not suppose anyone was as disappointed as I was after hearing the President's State of the Union Message praising this legislation, and then finding the next morning when his budget arrived, that he had taken \$3.6 billion of the authorized level for fiscal 1993. If it was such a good bill, why did he not request the money?

Now, had the Senator said let us spend all the money authorized and appropriated—our pattern is to provide contract authority, which is in effect to appropriate the money—I would have said, of course, I completely agree. But it is fantasy in the face of a \$3.6 billion cut from the administration to say let us add \$3 billion more. More to what? More to less? That is not going to happen. It is disappointing that the very able Senator from Flor-

ida spent so much time on the floor opposing the bill and now comes to us and asks to spend more money on it.

This was never an emergency program. We said we are changing transportation policy in our country. It will take years to turn around. We are going to see the effect. We put more money in, with very strict rules. We talked about productivity, performance, about getting more out of what you have. And here we are, back at it. This is why we are derided. This is why we have television programs such as we had on the MacNeill-Lehrer News Hour, in which this legislation was derided as pork.

It was not pork at all. It was the most serious transportation legislation in a generation and has been so acknowledged. It is not throw money at a subject. It is build infrastructure, invest.

My able friend, the former Governor of Missouri, spoke of our need to avoid the short-term quick fix. That is exactly what this is, the short-term quick fix. We have said stop that. The policy statement says—I will read it:

The practices that resulted in the lengthy and overcostly construction of the interstate and defense highway system must be confronted and ceased.

That is to be put on every wall in every office at the Department of Transportation. It is to be given, handed, to every member of that department. It says:

I wish we could give it to each Member of the Senate.

Mr. BOND. Mr. President, will the distinguished Senator yield for a question?

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. MOYNIHAN. How much time have we?

The PRESIDING OFFICER. Four minutes twenty-seven seconds.

Mr. MOYNIHAN. Of course. I will be happy to yield.

Mr. BOND. Mr. President, I ask the distinguished chairman of the Environment and Public Works Committee if he has surveyed the State highway and transportation departments to find out whether they could use these funds. Because in our State of Missouri, increasing spending in 1993 and 1994 for long-term projects is not viewed as a short-term quick fix but, rather, an investment that will help our economy grow.

Perhaps other highway departments are not able, and perhaps other States are not. But I would say to the distinguished chairman that in my State, they clearly are able.

Mr. MOYNIHAN. The answer is some States can and some cannot.

Mr. SYMMS. Mr. President, if the chairman will yield, I say to my friend I have been told there are three States and the District of Columbia that have only used 10 percent of their allowable funds so far this fiscal year, and I

think, as the Senator from New York said, there are some States that might be able to temporarily use more funds, but apparently some States cannot.

Most States are scrambling to get enough matching money to meet the new additional Federal funds they are getting. It is just the opposite of the problem presented in this amendment. Missouri may be an exception.

Mr. MOYNIHAN. Mr. President, just to conclude, thanking the Senators for their courtesy in this debate, we have a problem next year that the administration has proposed to make a 20-percent cut in the outlays already provided. That is our real problem, not any fantasy adding.

But if this fantasy should come true, in fiscal 1996 there will be a 20-percent cut, and you will see the business cycle deepening, inadvertently but quite predictably. Remember, we tried to say this is an investment program, not a recession program. Anyway, we are talking about things that might happen a year from now, and would in some places, would not in other places—they would not follow the standards of efficiency, productivity, and long-term perspective that the Intermodal Surface Transportation Efficiency Act decreed.

Mr. CHAFEE. Mr. President, the Graham amendment would front load spending for the Federal-aid Highway Program. It would also front load spending specifically for the Interstate Maintenance Program and the National Highway System categories within the highway program. The amendment does this by increasing the obligation ceiling by \$3.5 billion in fiscal year 1993 and \$3 billion in fiscal year 1994. The obligation ceiling is then reduced in fiscal years 1995 and 1996.

Mr. President, the Congress passed the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] in November and the President signed it on December 19, 1991, just 3 months ago. The spending levels for this program were thoroughly debated and agreed to by an overwhelming majority of both Houses.

While the obligation ceilings are set in the ISTEA for each fiscal year through fiscal year 1997, the Appropriations Committees have traditionally reviewed them each year in the DOT appropriations bill. The Appropriations Committees have made adjustments when they were warranted. That opportunity will be made available shortly.

I have several major concerns with the amendment offered by my distinguished colleague, Senator GRAHAM.

First, the front loading of additional authorizations for the Interstate Maintenance Program and the National Highway System may hasten the triggering of the Byrd amendment because there will not be enough highway trust fund revenues coming in to cover all the authorizations made for the pro-

gram. This will have no immediate effect, but when the deficiency occurs, the U.S. DOT will have to reduce the apportionments to the States accordingly. Projected gas tax revenues have decreased significantly because of the current recession. If the current rate of revenues continues, even the authorizations provided in the ISTEA could trigger the Byrd amendment as soon as 1995. This amendment will move that time up even sooner.

Second, the ISTEA already increases spending for the highway program by \$3 billion from fiscal year 1992 to fiscal year 1993. An additional \$3.5 billion above this increase is a major increase and cannot be absorbed by most States. Most States will not have projects ready to go or will not have sufficient State matching funds. This will put pressure on States to raise or divert revenue for transportation projects at the expense of other programs.

Third, finally, Mr. President, this amendment may look revenue neutral, but if there is additional spending in the highway programs in fiscal year 1993 and fiscal year 1994, and no offsets until fiscal year 1995 and fiscal year 1996, that means there will be less spending in some other program or we will add even more to the deficit in fiscal years 1993 and 1994.

I urge my colleagues to vote against this amendment.

Mr. President, if my colleague has no further need, I will yield back the remainder of our time and move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. To which amendment does the Senator from New York direct his motion to table?

Mr. MOYNIHAN. I move to table the Bumpers amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are absent on official business.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 42, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Akaka	Cochran	Dole
Baucus	Cohen	Domenici
Brown	Craig	Durenberger
Burdick	Cranston	Exon
Chafee	D'Amato	Garn
Coats	Danforth	Gore

Gorton	Lugar	Sanford
Gramm	McCain	Sarbanes
Grassley	McConnell	Sasser
Hatch	Mikulski	Seymour
Heflin	Mitchell	Simpson
Helms	Moynihan	Smith
Jeffords	Murkowski	Stevens
Johnston	Nickles	Symms
Kassebaum	Packwood	Thurmond
Kerry	Pressler	Wallop
Lieberman	Roth	Warner
Lott	Rudman	

NAYS—42

Adams	DeConcini	Levin
Bentsen	Dixon	Mack
Biden	Dodd	Metzenbaum
Bingaman	Ford	Nunn
Bond	Fowler	Pell
Boren	Glenn	Pryor
Bradley	Graham	Reid
Breaux	Hatfield	Robb
Bryan	Hollings	Rockefeller
Bumpers	Kasten	Shelby
Burns	Kennedy	Specter
Byrd	Kerry	Wellstone
Conrad	Kohl	Wirth
Daschle	Lautenberg	Wofford

NOT VOTING—5

Harkin	Leahy	Simon
Inouye	Riegle	

So the motion to lay on the table the amendment (No. 1723) was agreed to.

Mr. MOYNIHAN. 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.

The PRESIDING OFFICER. Who seeks recognition?

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I intend to offer two amendments. Let me say to the distinguished chairman that I am amenable to a reasonable time agreement on one or both amendments, I just want to see that we get a vote on them.

Mr. BENTSEN. I say to my friend, his comment is a surprise to me because I had agreed there would be one amendment on each side. We are alternating this back and forth. So, let us discuss the time agreement and see if that can be accommodated.

Mr. D'AMATO. Let me say again that I have two amendments to offer, and if indeed after the conclusion of one of them, there will be some intervening time, fine, and then I will offer the second, but that was what I thought had been agreed upon, and we can save time.

Mr. BENTSEN. No; that had not been agreed on. We agreed to alternate amendments between the Republicans and Democrats. Last night we took two

on the Democratic side and two on the Republican side. But it was one amendment on each side.

Mr. D'AMATO. So I will offer my second amendment after the intervening amendment. I will lay it aside.

Both amendments, and I will discuss them, which are in the nature of what we are attempting to do, are aimed at fundamental welfare reform.

We find ourselves today spending more and more money on welfare programs and, indeed, we are entrapping people in a system, and we do little to encourage them to become part of the mainstream.

I believe that Government has an absolute responsibility to help those who cannot help themselves. But when we have general assistance programs that are giving more than 1 million able-bodied recipients, throughout the Nation, over the age of 18 without children, money that they do not have to work for, money that they can continually collect without regulations, without restrictions, and without requirements to report for a job, or job training, then we are making a mockery and a sham of the basic principles for which that welfare had been established.

Indeed, in the State of New York in 1990, taxpayers spent almost a billion dollars, \$913 million, to support 353,000 people who did not work.

This is outrageous. When we find in these times that we have Americans laboring, and barely making it trying to send their children to school and to make their mortgage payments, it is absolutely repugnant that we require no conditions for able-bodied recipients to report to work or training, to join the mainstream. Indeed, we have provided them an excuse and a reason not to become part of the American work tradition.

There must be mandatory workfare programs in effect, and if we fail to do that, the free ride will never end.

Mr. BENTSEN. Mr. President, if the Senator will yield for a moment, can we arrive at some time agreement? Would 30 minutes, 15 minutes on a side be acceptable to the Senator?

Mr. D'AMATO. It would be if we could have a vote and go right to the vote at the end of that period of time.

Mr. BENTSEN. That would be fine. I have no objection to that.

Mr. D'AMATO. Fine. Might I ask the chairman after the intervening colleague, after the amendment is taken up by the Democrat, I would like, for some continuity, to move to the second D'Amato amendment.

Mr. BENTSEN. That will be decided on the Republican side by the Republican manager of the bill. I personally have no objections.

Mr. President, I ask unanimous consent then that 30 minutes be allocated to this amendment, 15 minutes to a side, 15 minutes managed by the proponent of the amendment, and 15 min-

utes by the manager from the majority side.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. And no second-degree amendment.

Mr. D'AMATO. And there be no second-degree amendment?

Mr. BENTSEN. Yes.

Mr. D'AMATO. Fine.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Texas?

Mr. D'AMATO. No.

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

AMENDMENT NO. 1725

(Purpose: To discourage States from providing general welfare assistance to able-bodied individuals unless such individuals are participating in a State workfare program)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. NICKLES, proposes an amendment numbered 1725.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . GENERAL WELFARE ASSISTANCE PROVIDED BY STATES TO ABLE-BODIED INDIVIDUALS.

(a) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of law, if the Secretary certifies that any State is operating a general welfare assistance program during any calendar quarter—

"(1) which provides benefits to an able-bodied individual (as determined by the Secretary) who has attained age 18 and who has no dependents, and

"(2) which does not require such individual to participate in a State workfare program (meeting the requirements of the Secretary as provided in regulations to be issued by October 1, 1992),

the Secretary, upon such certification, shall reduce by 10 percent the amount that such State would otherwise receive in aid to families with dependent children under this part during such quarter."

(b) EFFECTIVE DATE.— Subsection (a) shall apply to calendar quarters beginning on or after January 1, 1994.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, let me explain what this amendment does. This amendment requires able-bodied welfare recipients over 18 years of age, with no dependent children, to participate in a State workfare program.

What we are looking to do is to see to it that we provide a very real and

meaningful opportunity for people to leave the welfare rolls. If left to their own now, there is no incentive to do so.

My amendment says that unless States adopt requirements to institute a workfare program as approved by the Secretary of HHS, they will lose 10 percent of the Federal share of funds that go into the AFDC Program.

This may seem to be harsh, but let me suggest to you that the States of this Nation must put forth a bona fide program of job training or actual employment. This must become available. We will give the States and the HHS until the end of next year. The Secretary of HHS must issue regulations by October 1 of this year, and States will have until January 1, 1994, to comply.

We provide an ample opportunity for States after the regulations are promulgated and approved to come forward with a workfare program.

In the State of New York, I can say to my colleagues that I believe that it will have a substantial impact, that will deal with one of the great nagging problems of our time; of breaking welfare dependency, when we have able-bodied recipients who can report to a job. They may not like the job, but if you are going to be drawing on public funds, why should one not have an obligation to earn his or her way if they have no impediment?

We are talking about able-bodied recipients. We are talking about people who do not have dependent children. We are talking about programs that will and can be developed in conformity with the State and the Secretary of HHS.

These are minimal requirements to resolve a nagging problem for those who find themselves entrapped in this cycle of dependency with little motivation, if any, to move off of the welfare roles or to become part of a regular routine of job training, or an actual job. Certainly, society has an obligation, when we are providing billions of dollars literally for these programs throughout our States, to expect this much.

I think that what we have come down to is that States will have to choose between freeloaders and families. I do not believe that there would be any State that would fail to enact a comprehensive workfare program and then employ it. Otherwise, they would face the loss, as this amendment calls for, of 10 percent of their Federal share of aid to families with dependent children.

They will have to choose between doing something to encourage people to work or losing 10 percent of the Federal share of their AFDC funds.

We have provided ample opportunity, ample time for them to undertake this requirement. It would be my hope that we would begin to put those people

back into the mainstream who would otherwise simply continue receiving the public dole. It would be my hope, in addition to providing jobs and job training, that we would see people break that cycle of dependency who will then become taxpayers and wage earners, instead of increasing this incredible load.

Mr. President, it is a simple amendment. It is not going to solve all of our problems. As I have indicated, I have a second amendment that I believe is absolutely essential to keep people from shopping for higher welfare benefits.

And what it says—and I will just explain it before I sit down—is that you will not be able to move into a State simply to get higher welfare benefits; that anyone who had moved into a State in the last year—we have substantiated a minimum of 12,000 such cases in New York, with the number rising, that people are shopping for better benefits. They move into a State to get higher benefits. That is wrong. It is unfair to the people of that State.

Having said that, nearly 20 percent of new applicants from New York City were from out of State. This is unconscionable—where people are coming into an area just because they can get higher benefits.

What my second amendment says is that a recipient receive for 1 year, the lower of the two rates of welfare benefits, from either his or her old State or new State so that one cannot shop around for higher benefits. We have our border counties in New York—Niagara County and Erie County, and others along the southern tier, along the Pennsylvania border, that suffer because States are changing their welfare requirements. They are tightening them up. What we find is that recipients in some cases are actually being directed to come to a particular State. In the case of this Senator, it is New York. And so that will be the second amendment that I will offer.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. MOYNIHAN. Mr. President, on behalf of the managers of the legislation on our side, I rise in opposition to the measure, I rise to make a point that we are talking here about a subject of which we know very little. There are no national data on welfare.

With respect to my good friend and fellow New Yorker, his proposal which says that any State which provides benefit to an able-bodied individual who has attained age 18 and who has no

dependents, there are 33 States that have such proposals. In New York it is called "home relief." In our State, in one form or another it goes back a century.

How many persons, however, receive home relief? Overall, nobody knows. We have no national data. It is no accident we have no national data. A great many well-intentioned but ill-advised people have thought if we did not have any data on welfare, the subject would go away.

Now they are finding out differently in this political season, as the Vice President goes up to New York City and denounces us in very un-Vice Presidential terms. We can not very well respond because we have not the basic data. If you have no information, what David Duke says, what anybody else says, might well be true because you do not know. We have passed—it took me 10 years to do it—but we passed in the Senate S. 1256. A bill that would establish an Annual Report on Welfare dependency. It is in the House and I hope the House will take it up. My friend, CHARLES RANGEL of New York, has said he is very much for it. We may yet do and we may yet learn something about the subject.

We do already know one specific. Almost one-third of American children will be on AFDC before they reach age 18. It is a historical fact. We know of the children born in the cohort, 1967, 1968, 1969, 22 percent were on welfare before they had actually reached age 18. 72 percent of the minority children.

Now that is a large problem, it is a national problem—there is no such equivalent.

However, this measure combines, in the most obscure way, apples and oranges. We start with home relief for able-bodied adults—usually males. How many, we do not know; we have not the slightest idea. It is a fair number, however, and it goes up. It is very sensitive to the business cycle.

But these are usually single men; sometimes single women. It is proposed by Senator D'AMATO that if a State does not provide a work program for those men, then the Federal moneys for children are cut, children who have no relationship to those men. We will cut title IV of the Social Security Act, the Aid to Families with Dependent Children by 10 percent, in order somehow to punish the State for not providing a Workfare program for unrelated adults. No Federal funds involved of any kind—none.

I will grant, Mr. President, that one of the disabilities I bring to the Senate is an early childhood education in the parochial schools of New York, which taught me, or tried to teach me, the language of the New Testament. I never really learned the language of the Old Testament. If you do not know the language of the Old Testament, it is very hard to discourse on the Senate floor.

But I do somewhere recall from Exodus the passage: " \* \* \* visiting the iniquity of the fathers upon the children. \* \* \*" The sins of the fathers shall be visited on the sons.

This is a proposal to have the sins of complete strangers—if they be sins—visited on infant children who have no relation whatever to them.

It would cost States an enormous amount of money. It would cost our State, sir, a lot. If you really think you can change the behavior of State governments by punishing children whose behavior is not at issue, well, this is the amendment for you. But, my goodness, we have cut benefits under the AFDC program by 42 percent since 1970. We have not actually cut them; we simply have not arranged for the cost-of-living increase that takes place in every other title of Social Security, every benefit title. We have not allowed that. So the real benefits are down 42 percent.

Currently, there are proposals in some State governments to actually cut AFDC benefits as against just letting them fall behind. But they are 42 percent behind now. To cut them further boggles the mind. Is welfare becoming a code word in this Presidential year?

But no doubt about it, the President was here in Washington Monday to address the League of Cities. I say to my friend, the distinguished chairman of the Finance Committee, he said welfare was threatening the international status of the United States as a competitive nation. He raised it to the level of an international issue.

His facts were not wrong. In the history of the Presidency, I do not think any President has ever said such things. That, for example, one child in four is now born out of wedlock; extramarital, as we say. We have about 4 million children a year born, about a million extramarital. Almost by definition, they are born in need.

Here is a measure that says we will provide less food and clothing for these children because someone on the other end of the State, who had no relation to them whatever, did not join a work program, or because the State legislature did not enact one.

That is punishment, this is a punishing amendment. There is a cost. My friend would not deny it. My friend from New York intends this to make States put a workfare program in place. And that is a good idea. But I think, looking at the State legislatures, not least our own, if the idea is to spend more money for workfare or get less Federal money for child welfare, they will choose the latter. All over the country, they are choosing it in one form or another.

Mr. President, we cannot be serious. I am glad Frances Perkins is not alive to see this. We will see more of it.

I will say, once again, one of the basic facts is we know little about the

numbers involved—about nothing. We have passed a bill here in the House. The administration supports it. I hope the Democratic Party will wake up to what is happening here. That is a lot to ask. I know. It is a very great deal to ask. But it is necessary.

But how many times, how many speeches, how many amendments do you have to have before we recognize that a campaign is being directed against these children which is somehow intended to implicate us?

The first grandchild has appeared in the Moynihan family. A 15-month-old toddler. God, if you knew how great grandchildren are, you would have them first. But think. There but for the grace of God goes a welfare baby. Say to that welfare baby: You know something, somebody in Plattsburgh, NY, does not have a Workfare program. So we are going to feed you less. There will be one less bottle a day. To a child—a child. Not an adult, but a child, who does not even know what you are saying.

I am not going to speak more, Mr. President. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 3 minutes and 44 seconds.

Mr. MOYNIHAN. Mr. President, I yield the remaining time to the distinguished chairman of the Committee on Finance, the manager of our legislation, Senator BENTSEN of Texas.

The PRESIDING OFFICER. The Senator from Texas, Senator BENTSEN, is recognized for the time remaining.

Mr. BENTSEN. Mr. President, how much time remains for the other side?

The PRESIDING OFFICER. The junior Senator from New York controls 8 minutes and 17 seconds.

Mr. BENTSEN. Let me say first, Mr. President, I know no one who is a greater authority on welfare legislation, and specifically, the effectiveness or ineffectiveness of such legislation, than the distinguished senior Senator from New York. That is why I asked him to discuss this issue.

If certain States choose to require general assistance recipients to participate in workfare programs, well, it is OK with me. I understand a number of States have adopted that approach. But I have to point out that the issue today is whether there is any basis for action or interference by the U.S. Senate in how States operate their general assistance programs.

The Federal Government plays no role in these programs. They are created and funded fully by State governments. It is up to the State legislatures, not the Congress, to decide how these programs are run. It is not our jurisdiction. And we should not preempt the State laws in that regard.

At the appropriate time, I will be moving to table the amendment.

The PRESIDING OFFICER. Who yields time? The Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, let me see if I cannot follow the logic of how it is that this Senator would be doing something so terrible, when I am really proposing that States adopt the policy that says if one wants to get benefits, you have to report for work if you are able-bodied, or for a job training program.

I do not see this as being something cruel or inhuman. To the contrary, I think what we have done previously is to set up a system that costs this Nation tens of billions of dollars because people, even youngsters beat the system and become part of the welfare dole. What we are doing is entrapping them.

I would like to know what the statistics are—I will venture to say they are staggering—as to how many AFDC children are born from or are the products of those who were once able-bodied, who might have had a job, but who were never challenged to break the system.

So when we say there is no direct link, let me tell my colleagues, we are just looking the other way, in day-to-day life, there is a direct link between those who are able-bodied and who started out on these programs and those who became fully dependent upon the Federal Government and the State. We have built this huge system costing the Nation almost \$20 billion a year. More than that, it is sapping the vitality of people who could be productive.

By the way, code word? Code word? Let me simply suggest that the leading Democratic Presidential candidate, Bill Clinton, backs a policy of workfare—and I did not bring this up. If we are going to suggest the President of the United States and Mr. QUAYLE—and by the way, Vice President QUAYLE was absolutely right when he came to New York and said as a result of welfare programs that have become entrapping and have been administered in a manner that is absolutely scandalous, we have become the "Cadillac of welfare States," and I am paraphrasing, we have entrapped people.

Since when is it wrong to say let us change the system? I wonder how it is that people begin to bring up this business about code words. How is it that no one says anything about the leading Democratic candidate proposing workfare, not welfare. I may not agree with Bill Clinton on many things, but when he says workfare, not welfare, he is right. We better wake up.

If a State chooses not to adopt a workfare program by 1994, as approved by HHS, then they have made the choice. They have made the choice that they are going to deprive benefits to young people. I cannot believe, though, that even the State legislature in New York, would permit this to take place. If they want to cut \$100 million in benefits that would otherwise accrue to those who are truly needy, it is their

choice. I may disagree with them at times, but I do not believe they would turn their backs on the truly needy because they did not have the gumption to stand up to the political pressure and say, workfare, yes, welfare, no. They cannot continue a policy that entraps people and is responsible for mirroring so many into this welfare trap.

That is not a code word. If it is a code word, then I would say that Governor Clinton has been using it, and one of the areas I do agree with him is that we do need workfare, not welfare.

We are looking to make all the social ills and all the economic ills a scapegoat for this. I did not bring it up for that purpose. I brought it up so that we would challenge our system, and the one in New York, that desperately has to be challenged so we can break the cycle of dependency, so we can stop the burgeoning AFDC rolls.

Mr. President, I think a lot of things can be said, but we are not going to improve the system if we do nothing. And if we want to do nothing, if we want to vote against this amendment, then we are saying let us continue with a system that continues to drag down people and entrap them and does not challenge them to join the mainstream.

The PRESIDING OFFICER. Who yields time? The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as regards the specific issue before us, I say to my friend, and I think he would agree, this Senator has nothing against workfare. This body has nothing against workfare. The Family Support Act which requires workfare as a condition of receiving AFDC benefits, welfare benefits, passed this body 97 to 1 in 1988-97 to 1. And Governor Clinton, as my friend from New York says, was as chairman of the Governors Association very much in support. We say we had the governor's bill.

If you really want workfare to work, put up the money for it. We are putting up a billion dollars a year that gets nowhere near what we would need. We would need \$5 billion a year.

I have a bill—work for welfare. I have asked the President, shall we not sign this bill; send it to the President and say either put up the money or stop using this code word. It would be money well spent, every dollar spent where you get a workfare program, you get returns on it and we would say, any welfare recipient signs up for welfare the day they sign up for AFDC or they do not get either. If you do not go into welfare, you lose your benefit. If we funded that statute, we might be better off. I think the Senator from Texas would like to make a motion.

The PRESIDING OFFICER. There are 5 seconds remaining on the time allocated to the opposition.

Mr. BENTSEN. Has all time been yielded back?

The PRESIDING OFFICER. All time allocated to the opponents has expired.

The Senator from New York [Mr. D'AMATO], has 3 minutes 25 seconds remaining. Who yields time?

Mr. BENTSEN. I will not impose on his time.

Mr. D'AMATO. Would the Senator like time?

Mr. BENTSEN. The Senator can go ahead. I have made my point.

Mr. D'AMATO. Mr. President, let me explain what this amendment does. It says the States must adhere to a workfare program that will be promulgated by the Secretary of HHS after January 1994. It gives them ample opportunity to bring about a program that will require able-bodied recipients who do not have dependent children to participate.

We have counties and towns and villages and cities today that cannot meet the needs of its people. What better a way to encourage a young man, who otherwise would just sit back and collect a welfare check and not become part of the system, to help do those things that a city does not have a budget for, or to come into a job training program and learn the meaning and responsibility of work if he or she wants dollars that do not come from heaven. Right now, this money comes from hardworking middle-class families who are suffering.

It is not a code word. Not in the sense that some are ascribing to, and they are wrong. And if they are doing that, then they are saying Governor Clinton whose theme is workfare, not welfare—is a racist? Is that a code word? How dare those who come out and say, oh, the President, or the Vice President or anyone who says we need workfare not welfare, is using a code word. That is wrong.

It is about time we said able-bodied recipients should be required to undertake some job performance, if not training, some public service; and we give the ability to our States to decide what it can and what it should be. I am not suggesting nor does this legislation say that it has to be 40 hours a week or you have to report 5 or 6 or 7 days a week to work. It gives that discretion to HHS and to the States. It gives them ample opportunity.

Maybe some legislatures better wake up and maybe this body should wake up to the facts of what is taking place and how we are eroding the spirit of America's working middle-class families who turn around and see the kinds of abuses that take place and particularly in the State of New York. I think we should apologize to the people that we have not been pushing for these kinds of programs sooner. It is an outrage.

I urge my colleagues to support a program that will restore human dignity and give people an opportunity to become part of the American dream as opposed to entrapping them indefinitely.

Mr. KOHL. Mr. President, I rise in opposition to the amendment offered by the junior Senator from New York.

While I share the Senator's concern with welfare policy, especially his desire to educate, train, employ and in so doing empower the so-called underclass, I must strongly disagree with his approach.

As our other colleague from New York, the distinguished chairman of the Senate Finance Subcommittee on Social Security and Family Policy, so articulately stated: This amendment simply penalizes children for the sins of total strangers. Indeed, lacking adequate funding of the Federal Jobs Program, lacking State commitment to provide work programs, this amendment is purely punitive. And the victims of that punishment are children in AFDC families—children who have absolutely no control over the job opportunities of the general assistance programs administered by States.

Mr. President, once again I commend the subcommittee chairman for his leadership, his wisdom, and his insights. I associate myself with his remarks and urge my colleagues to support the motion to table the amendment.

The PRESIDING OFFICER. All time is yielded back.

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. BENTSEN. Mr. President, I move to table the amendment, and request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1725. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 62, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—33

Adams	Bryan	Ford
Akaka	Burdick	Glenn
Baucus	Cranston	Gore
Bentsen	Daschle	Jeffords
Biden	Dixon	Kennedy
Bradley	Durenberger	Kerrey
Breaux	Exon	Kohl

Mitchell	Robb	Sasser
Moynihan	Rockefeller	Shelby
Pell	Sanford	Wellstone
Pryor	Sarbanes	Wofford

**NAYS—62**

Bingaman	Gorton	Metzenbaum
Bond	Graham	Mikulski
Boren	Gramm	Murkowski
Brown	Grassley	Nickles
Bumpers	Hatch	Nunn
Burns	Hatfield	Packwood
Byrd	Heflin	Pressler
Chafee	Helms	Reid
Coats	Hollings	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Seymour
Conrad	Kasten	Simpson
Craig	Kerry	Smith
D'Amato	Lautenberg	Specter
Danforth	Levin	Stevens
DeConcini	Lieberman	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Fowler	McCain	Wirth
Garn	McConnell	

**NOT VOTING—5**

Harkin	Leahy	Simon
Inoué	Riegle	

So the motion to lay on the table the amendment (No. 1725) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

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

All time for debate on the amendment has expired.

The question is on agreeing to the amendment.

The amendment (No. 1725) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, without meaning in any way to be personal, may I say that the U.S. Senate has just, in one amendment, voted for the equivalent of child abuse, and in the following amendment, trashed the Constitution of the United States, as set forth by the Supreme Court in *Shapiro versus Thompson*, 1969.

**AMENDMENT NO. 1726**

(Purpose: To amend title IV of the Social Security Act to impose a new State plan requirement that limits the AFDC benefits available to new State residents)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1726.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

**SEC. . ADDITIONAL STATE REQUIREMENT WITH RESPECT TO AFDC BENEFITS**

(a) NEW STATE PLAN REQUIREMENT.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end thereof and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(46) provide that for a period of 1 year from the date an individual becomes a new resident in a State, such individual is eligible to receive aid to families with dependent children in an amount that does not exceed the lesser of—

“(A) the amount the individual received or could have received in the former State of residence, or

“(B) the amount the individual could receive in the new State of residence.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the day which is 30 days after the date of the enactment of this Act.

Mr. D'AMATO. Mr. President, I do not intend to take a great deal of time, and I am going to move very expeditiously. Let me simply state that this amendment stops welfare shopping. It says that—

Mr. BENTSEN. I ask the Senator to yield for a minute.

Mr. D'AMATO. Certainly

Mr. BENTSEN. We have agreement there will be a total of 10 minutes on a side. And no second-degree amendment.

Mr. D'AMATO. I state to the chairman, who has been most courteous, I do not intend to use all of my time; only a small portion of it.

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

Mr. D'AMATO. Mr. President, what this amendment does is it stops one of the greatest abuses that have been taking place for decades. It stops welfare shopping. It stops people who literally look to see where they can get higher benefits and therefore come to a State to receive public assistance. They go right to the public assistance office. They are on public assistance in one State and when they find a State that offers greater benefits they move there.

Today, this amendment becomes more critical than any other time. Why do I say that? I say it because there are a number of States who are dealing in a meaningful way with the abuses that have taken place. They are saying that able-bodied recipients must report for a job, and they cannot stay on the rolls indefinitely.

What do we find? We find in those adjoining States, who have higher benefits and may have not taken this action, an influx of hundreds and hundreds of welfare shoppers. In little Niagara County in upstate New York, we had new enrollment records from out-of-State residents in 1990: 378 out-of-

State residents came in, and the welfare commissioner and board up there are saying that this number is going to be much higher this year. In 1991, this one little county enrolled 600 out-of-State residents in the county's welfare programs.

The fact is that the border communities of these States are being inundated. This is wrong. We should not have a forum for welfare shopping. This legislation says if you move into a State, you keep the benefits you were receiving, lower benefits, for 1 year. It discourages welfare shopping.

I hope that we will adopt this. I think it is an amendment that is long overdue.

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

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Texas. Let me speak to the amendment by the Senator from New York, and I will do this without a lot of opportunity for preparation.

But it does strike me that we do have a Constitution which guarantees equal treatment for all citizens, regardless of income. It is quite true that we have not had any hearings in any committee in the Senate, that I know of, where welfare mothers, poor, have had an opportunity to come in and testify. But, of course, they do not get that opportunity here very often.

What we have done is we just adopted one amendment that penalizes children. We adopted another amendment that I think is going to violate the Constitution of this country. We act as if there is no equal protection for citizens. Are we now going to say because people are low-income and on welfare, they do not receive any kind of constitutional protection whatsoever?

You would think by the kind of amendments that have been introduced here on the floor that the reason we are in such an economic mess here in this country is, of course, because of the welfare mothers. But, of course, they do not have the power to fight back. This is scapegoating. I think this is absolutely intolerable.

We talk about workfare and less welfare. But we do not talk about supporting affordable child care. We talk about workfare and less welfare, but we do not talk about how people are going to afford health care for their children. We talk about workfare and less welfare, but we do not talk about an economy that produces jobs for people at decent wages.

It does seem to me that somewhere, sometime, you have to draw a line. And as I read the Constitution—let us see what the court says. We have equal protection under the law for citizens, equal protection for citizens in this

country. We cannot pass a law telling someone because they are low-income, that if they move to another State they are not entitled to the same benefits that are provided to citizens of that State.

I think this is unconstitutional; I think it is unconscionable; and I think it is scapegoating on a group of citizens who do not have all the economic clout and power, and therefore unfortunately, certainly do not have much of a voice or any representation here.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, does the Senator from Nebraska request time? I yield 2 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, a week from today is March 20. It is the day that we have all been pointing to as the time when we have an obligation, which I thought from the first to do what the President asked us to do in his address to the Nation with regard to the state of the Nation.

I appeal once again that all of these extraneous amendments not dealing with the matter of the tax fairness bill be stopped. There are some good things embodied in many of the amendments that have been offered on the bill. But this Senator said from the very outset that I would be opposing amendments to the bill because, for the most part, I thought they had not been well thought through; for the most part, they have not had hearings.

I voted against the last amendment, although I must say that politically it was extremely attractive. I do not know, and I think very few in this body knew, what the full impact was of the measure that we just voted for overwhelmingly. I suggest that that came about primarily for politics.

But we are not going to reach the March 20 date. So I would say, despite the fact that in caucuses in the Democratic Party, at least, we have been asked to hold down amendments, I see that as being wholesale violated with votes that are cast on the floor of the U.S. Senate.

This Senator said I am going to oppose these amendments, because I thought that was the right thing to do if we are going to get something on the President's desk by a week from today. But I would simply say, in fairness to all Senators, with the last two or three votes, come on over and offer your amendments. Because if there is any political connotation to the amendment, it is going to pass, whether it has been thought through or not.

I think it is a sad way for us to reach into these kinds of amendments. Therefore, I simply say regardless of the merit of these amendments that have not been thought through, this

Senator will continue to the commitment he made to vote against extraneous amendments that have not been thought through, which I think most of them have.

I yield back the time yielded to me by the chairman of the Finance Committee.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from California is recognized.

Mr. SEYMOUR. Mr. President, I request 2 minutes from Senator D'AMATO's time.

Mr. D'AMATO. I have no objection. I yield 2 minutes to the Senator from California.

Mr. SEYMOUR. Mr. President, I commend Senator D'AMATO for offering both the amendment that we just voted on, as well as this amendment, which represents true reform in welfare. The reason he has done this is that he wants to represent the working men and women of his State, the men and women who are paying the taxes and pulling the cart.

The reason I rise for this brief period is to say that I want to represent the people of California. You see, in California, our population is projected to grow during the 1990's by 6.3 million people. However, welfare in California is growing at 12 percent per year, 4 times faster than the rate of our population growth.

As a matter of fact, California, with 12 percent of the population of our country, bears the cost of 26 percent of our Nation's welfare costs. In fact, 7 percent of California's present welfare recipients did not live in our State 1 year ago. Therefore, California is a prime example of what the Senator from New York has referred to as welfare shopping.

I think this is good legislation. I think taxpayers are fed up with pulling the wagon. They are good, hardworking people, but we have gone off the deep end.

So I stand in support of the Senator from New York in his effort to make a small change, but perhaps a big difference in the attitude of those who choose to move to another State to increase their benefits from welfare.

I yield my time, Mr. President.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. BROWN. Mr. President, I ask 1 minute of the time of the Senator from New York.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Mr. President.

Part of the problem we face is a bit different than perhaps many Senators might think when they first look at this issue. Some States have literally bought welfare recipients bus tickets to go to another State where they are paid more in AFDC benefits.

I do not think there would be a Member of this body that would not be con-

cerned about that policy, not only the policy itself, but the implication of that policy. Part of the problem for the receiving State is there are restrictions that prevent the States from providing lower initial benefits when this occurs. In other words, we have prevented some of the States from defending themselves when welfare shopping occurs.

So what this amendment really does is in effect give the States the ability to defend themselves and discourage this despicable practice.

I hope this measure will have a clear effect of giving some States some flexibility. I think that is the ultimate advantage here. That ought to be where we are going, so that States have some discretion in the way they develop their policy dealing with this problem. It will ultimately be a benefit to welfare recipients, as well.

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

Mr. METZENBAUM addressed the Chair.

Mr. BENTSEN. Mr. President, how much time does the Senator from Texas have?

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in opposition to the amendment. There is something absurd about this amendment. This is a Nation of 50 States, and if we are suddenly going to get to the point that, when you cross a State line, you suddenly get lesser rights—are we just going to apply that to welfare? This apparently is the time in our history when everybody wants to jump on the person on welfare. What kind of humanity is that? What kind of inhuman approach to this Nation's challenges?

The Senator from California talks about the working men and women of his State. Let me tell you there are less working men and women in your State now than there were 11 years ago, and it has been going down constantly. What we ought to be concerning ourselves about on the floor of the Senate today is how to get people back to work so they do not have to go on welfare. And that is what this legislation we are considering is directed at.

But instead of that, no, we have to find a way to take care of those poor people who happen to move, for one reason or another—maybe their family is there, maybe that is where they came from originally—and they go back into the community and they are told, "Oh, no, you can't get what everybody else gets on welfare. You can only get what you were getting in the State from which you came."

I just think there is kind of an absurdity about this amendment. I think we ought to be out there fighting to get people back to work, which is what

this legislation before us is all about. Instead of that, we pick on those who do not have a voice in the Senate. We pick on those who have nobody to speak for them, no lobbyist, and we want to see to it that we squeeze a few dollars out of the paltry sum they are receiving from welfare.

Go ahead and pass it and make yourself feel great. And then go home and tell your kids about it and ask them what they think about your vote today. This is an amendment that should be defeated overwhelmingly.

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

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I will take just 30 seconds of my time to reply.

Do you know who does not have a lobby? The working middle-class families of my State. The legislature will not do anything to protect them there. For years, we have been having thousands of people, and they buy tickets for them and send them up to New York to be put on the welfare rolls and tell them exactly where to go. You tell me that this is charity?

Who is going to protect my people? Who is going to protect the taxpayers who have the highest welfare burden of any State? Send them to New York. Yes, you can laugh. And they are coming from all over. And it is time we said, "If you want to come, fine. If you really want to live here, fine. We are not stopping your freedom of choice. But if you come to get increased benefits you won't get them." That is what it says. "We don't cut your benefits." But, by gosh, we won't allow one to move over the State line and get \$200, \$300, \$400, or \$500 a month more from the working people of that State. We cannot support this any longer because the property taxes and Medicaid costs in our State have outstripped the ability of the counties and the people to pay. We are higher than twice the national average.

Let me share it with you. New York had 18 million people in 1990. California had 30 million. And yet we paid almost twice as much, \$11.6 billion in Medicaid as compared to \$6 billion. If you want to talk about welfare and the benefits that go with it, where should people go? For better benefits, go to New York.

Am I attempting to do something to help my people? Yes, the working, middle-class families that have to shoulder that burden. Enough is enough.

Mr. President, I am ready to yield back the remainder of our time.

Mr. BENTSEN. Mr. President we yield back the remainder of our time.

Mr. KOHL. Mr. President, the amendment before us attempts to address a concern that has been discussed at great length in my own State of Wisconsin.

In 1990, Wisconsin provided a maximum \$517 monthly AFDC benefit for a three-person family. By contrast, the State of Illinois provided a monthly benefit of \$367. Minnesota, our neighbor to the northwest, provided a benefit of \$532.

The question of whether or not certain individuals are migrating to Wisconsin for the purpose of welfare shopping, as my colleague from New York suggests they are, has been a very emotional one. It has been politically charged, and to date, unresolved.

Following my remarks is a very thoughtful and studied analysis, prepared by Dr. Thomas Corbett of the University of Wisconsin-Madison Institute for Research on Poverty, of the arguments and evidence surrounding the welfare magnet debate in Wisconsin. I highly recommend it to my colleagues as a less political and emotional basis on which to make policy.

It is my own sense that there may be a preferable way to deal with such migration, to the extent one can find evidence that it is benefit driven. And it is a quite simple and old one: establish a Federal uniform benefit level, regionally adjusted for cost-of-living. If what the Senator seeks to stop is welfare migration, and if indeed such migration is the result of disparity in AFDC benefit levels, then benefit uniformity would address that concern, would it not?

Several Wisconsin legislators have joined with some of their colleagues in neighboring States calling on the Federal Government to do just that. As several of my colleagues here today have indicated, there is a potential constitutional problem with erecting tollgates at State borders vis-a-vis fair and equal access to Federal benefits. Given that legitimate concern, I would be happy to work with both of my colleagues from New York in considering the Wisconsin call for Federal uniform benefits.

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

THE WISCONSIN WELFARE MAGNET DEBATE:  
WHAT IS AN ORDINARY MEMBER OF THE  
TRIBE TO DO WHEN THE WITCH DOCTORS DIS-  
AGREE?<sup>1</sup>

(By Thomas Corbett)

Thomas Corbett is an IRP affiliate and Assistant Professor, Division of University Outreach, Department of Governmental Affairs, University of Wisconsin-Madison. The author was a contributor to the 1986 study of the welfare magnet phenomenon commissioned by the Wisconsin Expenditure Commission that is discussed in this article. He has remained interested in the subsequent debate about the issue.

RATIONALITY AND THE DOING OF PUBLIC POLICY

Doing public policy well is a difficult undertaking. This is particularly true when dealing with what are termed wicked problems—when normative, theoretical, and technical contention is high. The welfare

magnet issue, defined as the interstate relocation of low-income persons for the purpose of securing higher welfare benefits, is such a problem. Strongly held opinion dominates reasoned debate, even in Wisconsin, a state long associated with progressive and competent government.

A quarter century ago, confidence in government ran high. Faith in the capacity of social science to inform and shape public policy was widespread. Newly developed analytic techniques were expected to displace normative and ideological debate as the ordinary mechanism for conducting public affairs. "Logic, data, and systematic thinking were to compete with, if not dominate, 'politics' in the making of public decisions." Robert Haveman notes of this period.<sup>2</sup> It was anticipated that empirically based policy analysis would enable government to remedy the most refractory social problems, such as poverty.

The reign of rationality as the dominant public policymaking paradigm—even as an academic illusion—was short-lived, by the mid-1970s confidence in rigorous analysis and proactive government had declined.<sup>3</sup> By the 1980's the role of government and its supportive analytic apparatus in alleviating social woes was judged to be incompetent at best<sup>4</sup> and perverse at worst.<sup>5</sup>

"Social myths thrive in environments without data," James Heckman asserts.<sup>6</sup> But in the real policy world it is equally plausible that myths thrive because of data—the very manner in which they are collected, presented, and interpreted. Policy analysis and political decisions are driven by preferred world views. Such views of how the world really operates are, in turn, expressions of deeply held values. Where issues are complex (e.g., poverty and public dependency), it is easy to engage in perceptual reductionism whereby large amounts of data are summarily reduced to a manageable size and conflicting interpretations are subject to theoretical simplification. For example, it becomes easier to select a portion of the poor to represent, or serve as a proxy for, the entire population, rather than deal with the practical and theoretical consequences of the diversity within the population. A simplified picture makes the policy-making task appear more manageable. Wicked problems seem to yield simple solutions when the complexity of the issue is minimized.

The so-called welfare magnet issue in Wisconsin is an example of the tenuous link between national analysis and the doing of public policy. The issue appears straightforward and amenable to empirical examination. Do low-income families relocate to Wisconsin to take advantage of the state's relatively generous benefits in the Aid to Families with Dependent Children (AFDC) program? As suggested in the abridged review of the Wisconsin welfare magnet debate presented below, it remains one of those wicked problems about which conflict and confusion abound respecting theory, evidence, and policy.

THE ISSUE AND ITS ORIGINS

Because the size of the AFDC guarantee—the amount a family without other income receives in benefits—is determined by each state, actual welfare payments vary greatly across jurisdictions. Though nominally based on what it costs to live in each state (the need standard), local political and other idiosyncratic factors play an important role in determining benefit size. In Mississippi, for example, a one parent family of three receives a maximum payment of \$397 a month (in AFDC plus food stamps), whereas in Alas-

Footnotes at end of article.

ka, the maximum payment to the same size family is \$1141.<sup>7</sup> It has long been assumed that this variation in the size of welfare benefits causes poor and jobless people to move to those states that provide the most generous benefits; such states are therefore considered welfare magnets. This belief encourages states to lower their benefits, at least below the payments offered in adjacent states, in the hope of exporting rather than importing indigent families.

Fear of attracting the poor is nothing new. The English Poor Laws, upon which the American approach to public assistance was originally based, were designed to restrict the mobility of the poor. In this country, as early as the eighteenth century, harsh measures were employed to deal with poor migrants. These included "warning out" (actively evicting poor transients), residency requirements (requiring an individual to live in an area for a period of time as a condition for receiving aid), and "charge backs" (billing the recipient's prior jurisdiction for assistance provided). Replacing cash payments with poorhouses and workhouses was the nineteenth-century approach to the problem.

As cash programs designed to aid the poor expanded in the middle of the twentieth century and the population became more and more mobile, the magnet question reemerged with increasing frequency. Officials in large northern metropolitan cities worried about magnet effects in the 1950's, in the wake of the massive migration of blacks out of the rural South to industrial centers in the North after World War II.<sup>8</sup> And it resurfaced in the public policy literature in the 1960s. In his 1969 message on welfare reform, President Nixon asserted that "due to widely varying payments among regions, [the welfare system] has helped draw millions into the slums of our cities."<sup>9</sup> Not surprisingly, increasing public concern over this issue coincided with dramatic AFDC caseload increases that can be traced back to the mid-1960s.

Despite the long history of concern over welfare magnet effects, research has been inconclusive. In 1974 Larry H. Long reviewed the early migration literature and asserted that "no study has presented empirical evidence for the hypothesis that welfare payments themselves have attracted huge numbers of persons to states and cities with high benefit levels. Most factual analyses have considered the hypothesis and refuted it but the evidence presented has not been entirely convincing."<sup>10</sup> In contrast, Richard Cebula concluded in a comprehensive 1979 review that the better studies provided definitive support for the welfare magnet thesis.<sup>11</sup> Nathan Glazer, who reviewed the literature on welfare migration for the U.S. Department of Health and Human Services, concluded that "welfare influences [interstate migration] but rather modestly."<sup>12</sup> And Paul Peterson and Mark Rom stated that "when people make major decisions as to whether they should move or remain where they are, they take into account the amount of welfare provision a state provides and the extent to which that level of support is increasing. . . . While the weight of the argument has begun to shift [toward support of the welfare magnet hypothesis], each of the new studies leaves the issue unresolved."<sup>13</sup>

#### THE MAGNET ISSUE COMES TO WISCONSIN

The magnet issue arose in Wisconsin as the state's AFDC guarantee began to exceed benefit levels available elsewhere, especially in Illinois. In 1970 Wisconsin's AFDC guarantee for a three-person family was identical to that of the median state and less than the

guarantee provided in neighboring states such as Illinois and Minnesota (see Table 1). But by the mid-1970s, this guarantee exceeded the median by almost one-half and, more important, exceeded what neighboring states were offering impoverished families. Sufficient concern about the magnet issue existed to warrant obtaining information on prior residential history from all new applicants for public assistance.

TABLE 1.—AFDC MAXIMUM MONTHLY BENEFIT FOR A THREE-PERSON FAMILY, BY SELECTED STATES AND FOR SELECTED YEARS

	1970	1975	1980	1985	1990
Wisconsin	\$184 (1.00)	\$342 (1.46)	\$444 (1.54)	\$533 (1.60)	\$517 (1.42)
Illinois	232 (1.26)	261 (1.11)	288 (1.00)	342 (1.03)	367 (1.01)
Minnesota	256 (1.39)	330 (1.40)	417 (1.45)	524 (1.58)	532 (1.46)
Mississippi	56 (0.30)	48 (0.20)	96 (0.33)	96 (0.29)	120 (0.33)
Median	184	235	288	332	364

Note: ( )=Ratio of state's guarantee to median guarantee.  
Source: U.S. House of Representatives, Committee on Ways and Means, "1990 Green Book" (Washington, DC: GPO, 1990), pp. 561-562.

The question was fully engaged in the 1980s. The national economy experienced singular difficulties in the early part of the decade. Some argued that the economy was undergoing a process of long-term restructuring. Rustbelt states like Wisconsin were thought to be particularly vulnerable, facing a declining manufacturing base, diminished fiscal resources, and reduced federal revenue sharing. In this context, relatively high public assistance expenditures were perceived as an insupportable state cost that could dissuade business executives from either remaining in or locating in a given state. Such a competitive environment exacerbated concerns about relative attractiveness and accelerated a self-reinforcing response among states to reduce social expenditures.

By 1985, for example, a family of three on AFDC living in Chicago could increase their cash monthly welfare benefits by almost \$200 by relocating to Milwaukee, only ninety miles away (see Table 1). Various local officials pointed to increases in AFDC caseloads, particularly increases in new applicants from Illinois. It seemed obvious to some, and certainly plausible to others, that the increasing gap between the two state welfare programs had resulted in an influx of welfare-motivated in-migrants, especially from inner-city Chicago. This, in turn, was blamed for a worsening of such youth-related problems as school truancy, gang conflict, and drug trafficking.

Empirical work on the issue began in earnest in 1985. At the request of the Wisconsin Department of Health and Social Services (DHSS), Paul Voss of the University of Wisconsin's Applied Population Laboratory conducted a study. Using decennial census data, he estimated that although three AFDC families moved from Illinois to Wisconsin for every one moving in the opposite direction, the disparity could be explained by the size of the population pools in these two areas.<sup>14</sup> According to Voss, "The probability of an AFDC mother living in northeastern Illinois moving to southeastern Wisconsin is no greater than that of an AFDC mother in southeastern Wisconsin moving to northeastern Illinois."<sup>15</sup> This conclusion did not, however, prove convincing to the believers in the magnet phenomenon.

The same year Governor Anthony E. Earl authorized the creation of a Wisconsin Expenditure Commission to examine the state's fiscal picture and to search for ways to make

the state more fiscally competitive. This commission established a special committee to examine the welfare magnet issue in detail and resolve the question once and for all. The committee was composed of representatives drawn from several organizations with an interest in the topic: officials from two key state agencies (the Department of Administration and the DHSS); officials from several counties thought most affected by welfare-motivated migration; members of the commission; and members of a research team chosen for the task. Paul Voss headed the university-based research team, which did its work under the auspices of the Applied Population Laboratory. (The Wisconsin Expenditure Commission initially approached the Institute for Research on Poverty, which turned down the opportunity to do the study because of the anticipated political response to any research, no matter how well done, on this inflammatory topic.)

Because the prior work by Voss (and others who used secondary data analyses) revealed nothing about the motivation of those welfare applicants who relocated across state lines at some point before seeking help, the committee felt impelled to move beyond census-type data in search of something more conclusive. They commissioned Voss and his colleagues to carry out a telephone survey with a sample of AFDC applicants in the summer of 1986 to tap the reasons behind their interstate move. These survey data would be combined with data obtained from a brief self-administered questionnaire completed at the time the application process was initiated and with administrative data normally collected by the state. Cognizant that respondents would give "socially acceptable answers," the research team couched their questions in ways designed to obscure the intent of the survey.

The committee's preliminary results—which had to be published before all the data were in—were that between 7 and 20 percent of those who had migrated to the state within the previous five years and who were AFDC applicants in the spring of 1986 were "influenced" to migrate by welfare benefit differentials.<sup>16</sup> They estimated that perhaps 10 percent of all migrants and 30 percent of recent migrants to Wisconsin (those who had moved within three months of the interview) were "motivated" to move because of these differentials. In the pool of all applicants (not just migrants), approximately 3 percent were estimated to be migrants motivated primarily by the higher welfare guarantees in Wisconsin. Adjusting for the fact that not all applicants receive AFDC, it was estimated that those motivated by the welfare differential amounted to merely 50 cases a month.

The survey also revealed that people moved for a number of reasons; the relocation decision was not one-dimensional. Some reasons for relocating—proximity to family and friends, the desire for a better life, and the hope of finding a job—appeared significantly more important than the size of welfare payments. Furthermore, it was found that some areas of the state had reason for concern. The WEC Report noted that "migrants for whom welfare played some role in the migration process tend to settle disproportionately in Milwaukee County. Nevertheless, other counties such as Kenosha, Racine, Rock (and perhaps others yet) can be dramatically affected even by small numbers of newcomers."<sup>17</sup>

The welfare magnet committee's answer to the question—Do low-income families move to Wisconsin to avail themselves of rel-

atively more generous welfare benefits?—was far from the crisp resolution of the problem that had been anticipated. The study concluded: "The welfare magnet argument is not without support."<sup>18</sup> In fact, the committee produced so much data that both proponents and opponents of the magnet hypothesis could find evidence supportive of their position. The committee concluded, however, that a statewide policy response was not warranted since freezing benefits would hurt Wisconsin natives as well as in-migrants, and any policy directed only at migrants would raise constitutional questions. In the end, nothing was resolved, and study of the problem was suspended—despite the insistence of the research team that the study was incomplete and the numerous methodological issues remained to be addressed.<sup>19</sup>

#### THE WITCH DOCTORS DISAGREE

The magnet debate did not disappear. Partly rationalized by fears of welfare-motivated in-migration, AFDC guarantees were reduced by 5 percent in July 1987. Moreover, calls continued for the enactment of some form of residency requirement, though few pursued this option seriously, given that the courts would almost certainly strike down such a provision. Advocates for some response to the migration problem began to focus on what was called the two-tiered solution. In-migrants would be paid less in benefits than Wisconsin natives; they would receive the amount paid by the state from which they had moved for a period of six months.

As various ideological camps formed in light of the actual benefit cuts and proposals for a two-tiered welfare system, three distinguishable positions on the magnet issue emerged. Some, focusing on selected findings from the 1986 study, argued that AFDC in-migrants relocate for the same kinds of reasons that others do—community-specific attractions and economic opportunity. This might be called the quality-of-life argument. Others essentially dismissed the 1986 study, simply asserting the AFDC in-migrants must be coming for the higher benefits—what might be called the welfare-maximization argument. Still others argued that it makes no difference why migrants came; only the fact that they were here counted. We might call this the agnostic argument, since it implies that theory doesn't matter. All that matters is that undesirable families allegedly are moving into the state for a variety of reasons that may never be fully understood, and "something" must be done to alter this migration pattern.

Some of those not immediately involved in the emerging debate found the analysis in the "WEC Report" enlightening. In the summary of the welfare magnet issue literature, mentioned above, Nathan Glazer noted that "this study is unique and rich," and further described the analysis as "careful and persuasive."<sup>20</sup> Not all observers were as impressed. The debate picked up in 1988 when the Wisconsin Policy Research Institute (WPRI) published "Welfare In-Migration in Wisconsin: Two Reports." The first report in this document, prepared by James Wahner and Jerome Stepaniak, was a study of welfare in-migration patterns and consequences in our southeastern Wisconsin counties—Milwaukee, Racine, Kenosha, and Rock. The second report in the document was a critique of the "WEC Report", by Richard Cebula and Michael La Velle.<sup>21</sup>

Wahner and Stepaniak, in their "Four County Report," looked at the counties that were likely destinations for any welfare-motivated in-migrant because of their urban

character and proximity to Chicago. The authors of the report made no attempt to map the motivations behind the decision to relocate. All families who moved to Wisconsin for the first time and applied for AFDC at some future time were considered to be welfare in-migrants. Defined in this broad manner, the population of welfare in-migrants included nonnatives who had already lived for years in the state before applying for welfare.

Using this definition, Wahner and Stepaniak reported that between September 1985 and August 1988, 74,763 AFDC cases were opened in Wisconsin. Almost three in ten of these (29.3 percent) were cases involving a family head who had never before lived in Wisconsin. Furthermore, "some 46.5 percent of 10,809 of the newly opened cases in Milwaukee between September 1985 and August 1988 were nonresidents with no previous Wisconsin residency. This is a substantial number."<sup>22</sup> In point of fact, these were the same numbers reported by the Wisconsin Expenditure Commission, which had indicated that twice as many approved applicants for AFDC in Milwaukee were new residents (having moved to Wisconsin in the previous five years), compared to the rest of the state (47.7 percent vs. 23.6 percent),<sup>23</sup> and that three out of ten new applicants for welfare were in-migrants in that they had not been born in Wisconsin. Though no really new numbers were contained in Wahner and Stepaniak's report, the magnet question was transformed suddenly from a relatively small problem into a large and ominous one.

But it was and is unclear what these numbers actually mean. Were all these migrants motivated by the higher welfare payments? What would one find if one looked at a sample of applicants for welfare in Illinois? One might find that 30 percent of welfare applicants in Illinois had never lived in that state before. And what sort of interstate migration pattern would be found if one examined new applicants for, say, driver's licenses or bank accounts? If analysts found that 30 percent of applicants for new bank accounts were not Wisconsin natives, would they conclude that Wisconsin's superior banking practices had drawn them to the state? Figures such as "30 percent of applicants are not Wisconsin natives" are little more than somewhat numbers—rather meaningless unless they can be analyzed within a sound theoretical framework and in terms of appropriate comparative data. (As mentioned earlier, the authors of the WEC Report had wanted to pursue such questions but failed to obtain funding from DHSS.)<sup>24</sup>

Wahner and Stepaniak drew the conclusion that "254 AFDC in-migration cases" were added to the caseload each month in the four counties they examined. They also declared that 70 percent of new entrants to the Milwaukee public schools, 58 percent of new beneficiaries of housing assistance, and about 33 percent of arrested juveniles were born outside of Wisconsin. These patterns were interpreted to represent a public policy crisis.

Cebula and La Velle, the authors of the second report, "Re-Examination Report," claimed to look specifically at welfare-motivated applicants for welfare, defined as anyone who, in the 1986 telephone survey, mentioned welfare at all, even if categorizing it as "not very important." Their conclusion was that in Wisconsin 497 applicants each month were welfare magnet migrants. After adjusting for the fact that not all applicants received AFDC, they arrived at a monthly estimate of new magnet AFDC cases that

was almost five times greater than the one suggested two years earlier by the Wisconsin Expenditure Commission.<sup>25</sup>

Based on their new estimate, they proposed that welfare benefit levels be frozen in Wisconsin until they were in line with the national average, that benefits should be maintained at that average, and that Wisconsin should consider imposing a three-to-six-month residency requirement for eligibility for welfare.

While politicians were debating a policy response to these alarming new numbers, another publication on welfare magnets was published by the Wisconsin Policy Research Institute. This document, titled "The Financial Impact of Out-of-State-Based Welfare In-Migration on Wisconsin Taxpayers,"<sup>26</sup> sought to spell out the fiscal consequences of welfare-motivated in-migration. The definition of welfare migration was widened once again. Now "out-of-state-based welfare in-migrants" included all those who had ever lived outside Wisconsin, no matter how long ago or under what circumstances they chose to move (or return) to Wisconsin. Like Wahner and Stepaniak, the author included, for example, a woman who moved to Wisconsin from Minnesota as a five-year-old and became a first-time applicant for AFDC twenty years later. But this study also included any Wisconsin native who left the state, if, upon returning, she eventually applied for welfare.

The estimated costs of this welfare in-migration phenomenon because truly frightening (see Table 2). According to these estimates 44 percent of the 10,000 AFDC entrants in 1988 were defined as out-of-state-based welfare in-migrants, presumably lured to Wisconsin by the welfare differential. This group, according to Cebula, generated additional costs amounting to \$129 million in 1988: \$52.9 million for increased benefits; \$15.5 million for workers to manage the higher caseload; \$54.6 million for educational costs and \$6 million for law enforcement costs. The "Financial Impact" stressed that these costs were additive and probably underestimated the true impact of welfare migration. The reader was also left with the impression that the costs were cumulative; that is, each year another \$129 million would be added to the taxpayers burden from welfare migrants.<sup>27</sup>

The AFDC costs in the paper raise questions rather than provide insights. Space permits me to touch upon only a few of these questions. The \$52.9 million additional costs for benefits is based on the assumption that all in-migrants were on the welfare rolls from the first day of the calendar year and received a grant throughout the year. But analysts from the DHSS have pointed out that these migrants would have been absorbed onto the caseload over the course of the year and at least a third of them would have been off assistance for at least one month during the remainder of the year. The DHSS analysts conclude that an average stay on welfare of five months, not twelve months, be used in the computation. In their opinion the estimate in "Financial Impact" overstates the additional benefit expenditures by 140 percent.<sup>28</sup> Furthermore the study uses gross in-migration, ignoring the fact that people leave Wisconsin. The study also assumes that this population is chronically dependent—once on the rolls, always on the rolls. Yet the literature on welfare dynamics indicates that half of all recipients beginning a spell on AFDC leave welfare in a year or two, and only about one in three eventually become long-term dependents.<sup>29</sup>

TABLE 2.—SUMMARY OF INCREASED COSTS TO WISCONSIN TAXPAYERS IN 1988 AS ESTIMATED IN "FINANCIAL IMPACT", REPORT OF THE WISCONSIN POLICY RESEARCH INSTITUTE

	(In millions of dollars)		
	Never lived in Wisconsin before <sup>1</sup>	Returning to Wisconsin <sup>2</sup>	Total
<b>AFDC-related costs:</b>			
Benefits	\$36.5	\$16.4	\$52.9
Personnel	10.7	4.8	15.5
Subtotal	47.2	21.2	68.4
<b>Education-related costs:</b>			
Direct	37.2	16.7	53.9
School lunch	0.5	0.2	0.7
Subtotal	37.7	16.9	54.6
Law enforcement costs (subtotal)	4.2	1.8	6.0
Grand total	89.1	39.9	129

<sup>1</sup> Defined as not born in Wisconsin but having maintained continuous residence after in-migrating. In-migration may have been in recent or distant past.

<sup>2</sup> Either born or lived in Wisconsin in past and has returned to the state either in the recent or distant past.

<sup>3</sup> State analysts have reestimated this figure. By making adjustments to inflow and exits based on available welfare data, they reduce this figure to about \$46 million. They further adjust it by eliminating those in-migrants who did not obtain welfare within 6 months of moving to state and further reduce it to \$24 million.

Source: The "Financial Impact of Out-of-State Based Welfare In-Migration on Wisconsin Taxpayers" (Milwaukee: Wisconsin Policy Research Institute, 1989).

Whether in fact in-migrants are more dependent than others is an open question. The fact that they have had the drive to relocate in search of a better life suggests that they are unlikely to remain on welfare. Yet their drive may extend only to finding the most generous handout. Data on this point are inconclusive, though early results from a new study by Voss and Dana Soloff indicate that welfare use is greater among those who indicated in the 1986 survey that welfare influenced their decision to move.<sup>30</sup>

The educational costs in the table are estimated the same way the AFDC benefits are, on the assumption that the children start school the first day of class and stay in the school system for the entire year. It is further assumed that all welfare migrants have school-aged children. (Even if these numbers were correct, it is obviously in the state's interest to educate poor children, no matter

where they lived in the past. Wisconsin, like other states, faces a labor shortage in the next decade and will need an influx of educated young people.)

The rest of the numbers in the table are more perplexing even than the AFDC-benefit calculations. For example, the cost of personnel is based on the assumption that a new welfare worker must be hired for every seven to eight cases added to the rolls and, of course, that the AFDC caseload is increasing. Yet the actual number of cases per worker is 83 (Wisconsin's per-month/per-case total administrative cost is only \$26)<sup>31</sup> and no data were provided on actual caseload size changes over the study period. The costs to Wisconsin taxpayers for the school lunch program are typical of the logic used in "Financial Impact." All AFDC children are eligible for free school lunches financed by the federal government. Whether a child eats that lunch in Chicago or Kenosha, the federal cost was \$1.66 in 1988. Because of Wisconsin's efficiency in administering this program, the average cost of producing a school lunch was \$1.26, substantially less than the \$1.66 subsidy. So there is no increased school lunch cost to Wisconsin taxpayers if a child migrates from, say, the Illinois to the Wisconsin AFDC program. Rather, the federal reimbursement structure would actually help subsidize the cost of school-provided lunches for non-AFDC poor children in Wisconsin.

#### PERCEPTION AND REALITY

Tables 3 and 4 compare estimates of caseload size and costs from the "Financial Impact"—extrapolating from the 1988 table and assuming that the numbers are additive and cumulative—with actual AFDC caseload data. The estimates derived from the logic employed in the "Financial Impact" bear little relationship to reality. Rather than increasing by more than 30 percent over the period from January 1986 to the end of 1988, the AFDC caseload actually dropped by 17 percent, from 100,000 to 83,373. Based on the logic of the "Financial Impact," the estimated caseload at the end of the decade would be in excess of 140,000, whereas the actual figure was less than 80,000. Not surprisingly, expenditures on AFDC were dropping,

abetted in part by the legislation in 1987 reducing the size of the welfare guarantee. Adjusting for this reduction in the predicted scenario would still put AFDC costs at over \$64 million per month by the end of 1989, whereas the actual cost was \$36,518,922—57 percent of the estimate based on the "Financial Impact."<sup>32</sup>

TABLE 3.—AFDC CASELOAD CHANGES: HYPOTHETICAL SCENARIO AND ACTUAL CASELOAD, 1986-1989

Year and month	Hypothetical scenario		Actual caseload
	Additional AFDC welfare migrant cases per quarter	Estimated cumulative caseload growth	
January 1986	0	100,000	100,000
By March 1986	1,838	101,838	99,915
By June 1986	2,800	104,638	98,660
By September 1986	2,802	107,440	97,529
By December 1986	2,812	110,252	95,158
By March 1987	2,732	112,984	97,198
By June 1987	2,763	115,747	95,565
By September 1987	2,725	118,472	92,876
By December 1987	2,695	121,167	89,312
By March 1988	2,616	123,783	90,920
By June 1988	2,577	126,360	86,888
By September 1988	2,852	129,212	85,870
By December 1988	2,190	131,402	83,373
By March 1989	2,470	133,372	83,503
By June 1989	2,610	135,482	81,244
By September 1989	2,904	139,386	79,388
By December 1989	2,332	141,714	79,559

Note: To derive the hypothetical size of the AFDC caseload, the monthly number of new AFDC cases (e.g., March 1986) is multiplied by 3 to give a quarterly figure and then multiplied by 44 (the percentage of new cases accounted for by out-of-state-based welfare in-migrants). It is assumed that no change occurs in the size of the Wisconsin native population on AFDC.

Source: Hypothetical scenario is based on "Financial Impact." Actual caseload from Wisconsin Department of Health and Social Services. Calculations by author.

Do these numbers mean that the suggested adverse fiscal impact of interstate migration is a fiction? Not necessarily. Other explanations could account for the discrepancy. For example, the aggregate caseload decline could be explained by a massive departure of Wisconsin natives from the welfare rolls, more than balancing the influx of out-of-staters. The administrative data maintained by DHSS, however, reflect no such scenario. The proportion of out-of-staters on the rolls has remained relatively constant, increasing only by 3 percentage points over the 1980s.

TABLE 4.—MONTHLY EXPENDITURES FOR AFDC: HYPOTHETICAL SCENARIO AND ACTUAL EXPENDITURES, 1986-88

Years	Per case expenditures	Scenario caseload	Scenario expenditures	Actual expenditures	Actual as percent of scenario
	(1)	(2)	(3)	(4)	(3/4 x 100)
1986 <sup>1</sup>	\$500	100,000	\$50,000,000	\$50,000,000	100
1986 <sup>2</sup>	498	110,000	54,780,000	47,356,943	86.4
1987 <sup>2</sup>	459	120,000	55,080,000	41,953,247	76.2
1988 <sup>1</sup>	459	130,000	59,670,000	38,277,811	64.1
1988 <sup>2</sup>	460	140,000	64,400,000	36,518,922	56.7

<sup>1</sup> January data.

<sup>2</sup> December data.

Source: Hypothetical scenario is based on "Financial Impact" numbers. Actual expenditures are from the Wisconsin Department of Health and Social Services. Calculations by author.

Another possibility is that the in-migrants are taking advantage of programs other than AFDC and food stamps. Perhaps legislation such as Learnfare and new work requirements have made AFDC less appealing, so new migrants are turning elsewhere, such as to the Food Stamp program, for assistance. But this assumption is also not borne out. Expenditures fell in the Food Stamp program just as they fell in AFDC. The only programs that expanded were Medicaid, where cost for health services historically outpaces inflation, and Supplemental Security Income, a program for the elderly, disabled, and blind poor.

During the height of the magnet debate, Wisconsin did not face a welfare crisis

precipitated by an onslaught of out-of-staters rushing in to take advantage of generous AFDC benefits. Table 5 indicates that the proportion of new AFDC cases who had never before lived in Wisconsin has remained constant at about 29 percent. Likewise, the proportion of newcomers who applied for AFDC within three months of moving to the state has been constant over time—about 12 percent. These numbers are unaffected by swings in the AFDC rolls and even remained constant after a cut in the AFDC guarantee.

#### THE POLICY CONUNDRUM: WHOM TO BELIEVE

Welfare magnet debates tend to be intense and protracted. Irrespective of numbers, the underlying hypothesis remains viable, partly because it is so plausible and partly because

it is supported by anecdotal evidence. Lacking precise definitions and data, analysts can build conflicting cases and draw wildly differing conclusions. The Wisconsin debate produced just such ambiguous numbers. By some estimates, three in five applicants lived elsewhere at some point in the past. Roughly one in three moved to Wisconsin for the first time within five years of their welfare application. About one in five are estimated to be recent migrants—to have moved to Wisconsin within three months of applying for assistance. Less than one in twenty are recent migrants who indicated that welfare played a substantive (though not necessarily dominant) role in their relocation decision. And only 1 percent of all AFDC ap-

plicants in spring 1986 both obtained welfare and fully admitted that they were drawn to Wisconsin primarily by the welfare differential.<sup>33</sup>

TABLE 5.—SUMMARY OF AFDC TRENDS OVER TIME: 1985-89

Year	Approved AFDC applications	First-time in-migrants		First-time in-migrants obtaining AFDC within 3 months	
		Number	Percent	Number	Percent
1985 <sup>1</sup>	2,128	620	29.1	252	11.8
1986 <sup>2</sup>	2,116	620	29.3	249	11.8
1987 <sup>2</sup>	2,067	606	29.3	244	11.8
1988	1,938	554	28.6	234	12.1
1989	1,954	571	29.2	236	12.1

<sup>1</sup> Based on September and December data.  
<sup>2</sup> Based on March, June, September, and December data.  
 Sources: "Financial Impact, WEC, Report," and DHSS administrative data.

How does one sort through such numbers and pick those that are policy relevant? For policymakers, the analytic context must have been confusing indeed. New studies and conclusions piled one upon another with little progress toward a definitive answer. Was the magnet problem large or small? Did welfare applicants move to Wisconsin primarily for higher benefits, primarily for quality-of-life factors, or for some combination of economic and noneconomic factors? What do the numbers mean?

Equally perplexing is the process by which the small numbers calculated in 1986 quickly got so large and frightening: Consider the continuing shift in conceptual definitions and research methodologies. In 1986, the focus was on estimating the numbers of "welfare-motivated" in-migrants. A substantive test was employed; that is, what proportion of in-migrants who applied for AFDC were predominantly influenced by the welfare differential and, therefore, might respond to policies designed to diminish that differential? To answer this question, the intent behind the move had to be tapped. The researchers therefore relied upon a survey methodology. By the end of 1988, all in-migrants who had never before lived in Wisconsin were considered by some to be welfare-motivated in-migrants if they applied for welfare. Accessible administrative data could be used to estimate the magnitude of the phenomenon. A year later, the dominance of the agnostic perspective was reflected in the approach employed in the "Financial Impact." Any welfare applicant who had ever lived outside of Wisconsin, no matter how long ago or under what circumstances she chose to move (or return) to Wisconsin, was designated an out-of-state-based welfare in-migrant.

As suggested earlier, the link between policy making and policy analysis is tenuous at best. Those convinced of the magnet problem selected those data and interpretations of the data that supported their preexisting beliefs. Those with the opposite opinion did the same. How one chooses among the available numbers depends upon individual norms and perceptions about the poor. Those fearing a large magnet effect appear to assume that interstate migrants who apply for welfare are the chronically dependent: looking for the best welfare deal and intending to stay on the rolls. An overreliance upon what was intuitively obvious might explain why available caseload figures were not examined to verify whether, in fact, the AFDC caseload was increasing during that period when a large fiscal impact of the in-migration effect was being argued. It was simply assumed

that the caseload and the supportive bureaucracy must be increasing. In policy analysis, the obvious—when examined carefully and dispassionately—can easily turn out to be not so obvious in the end. This is confusing not only to the ordinary members of the tribe but to the witch doctors themselves.

Those who wish to minimize the magnet effect are no less guilty. Indeed, they are likely to argue that, as conditions in the cores of big cities continue to deteriorate, migrants have much more pressing reasons to relocate than marginally higher benefits. Their very lives are at stake.<sup>34</sup> In focusing exclusively on quality-of-life explanations, such arguments tend to downplay the extent to which welfare-motivated migration does exist. Undoubtedly, both welfare-differential and quality-of-life issues explain part of what is going on.

Can rigorous policy analysis contribute anything to such a contentious issue? That might well depend on whether sufficient attention is paid to the following factors:

Achieving conceptual clarity.—It is imperative that the policy question be clearly articulated. Which issue is of preeminent policy concern: the in-migration of welfare-motivated persons? of those likely to end up on welfare irrespective of motivation? of the poor in general? or of minority families in particular? These are different questions and invite different processes for answering them as well as different policy responses. The point here is that we must get the question right and define our terms clearly. The debate in Wisconsin became incomprehensible because definitions of the target group kept shifting—from welfare-motivated families to welfare-influenced families to low-income migrants who might need welfare. A policy question cannot be addressed until we state it clearly.

Establishing standards of proof.—Would we recognize welfare magnetism if it existed? This is a more difficult issue than would appear on the surface. Namely, what is the threshold level at which a phenomenon becomes a concern, or a problem requiring some kind of response, or a crisis requiring immediate attention? For some, the magnitude of welfare-motivated in-migration measured in the 1986 study required an immediate policy response; for others, it was little more than a concern. Moreover, the consequences of a policy response determine the standard of proof that should be employed. If a policy change will adversely affect a broad class of individuals—all welfare recipients or all recipients who lived elsewhere—evidence that a significant problem exists should be evaluated according to a more rigorous standard.

Making an adequate investment.—More rigorous standards of proof require the use of methodologies capable of identifying causal relationships—not merely that X and Y are related but that X causes Y. In this instance, it must be demonstrated not only that higher welfare benefits are associated with the in-migration of welfare users but that the size of the benefits causes the migration. Some dispute will always exist about the kind of methodology required to establish causation. What is clear is that the analysis must go beyond the single numbers used in the past. As suggested earlier, finding that 30 percent of applicants are not Wisconsin natives is a "so what" number. Without appropriate comparisons, we cannot determine if that number is high or low. It takes careful investigation and the investment of sufficient resources to move from supposition to proof.

Clearly relating evidence to policy.—Even if the welfare magnet hypothesis were proved at a level that warranted a policy response, the appropriate policy response would not be clear. For some, any proof of the magnet hypothesis would buttress calls for further retrenchment of welfare at the state level. Others would use the same evidence to call for an expansion of welfare at the national level through the creation of uniform minimum welfare guarantees. There is no single policy implication to any given research outcome.

WHAT IS THE REAL PROBLEM?

Debates such as this may well distract the policy community from attending to more fundamental questions.

AFDC plays an increasingly marginal role in helping the poor. Nationwide, AFDC guarantees have declined in value by over 40 percent in the past two decades—though increases in in-kind supports (e.g., food stamps) have offset this drop by about one-half. The decline in the "real" value of AFDC benefits has been evidenced in virtually all states, those with high, medium, and low guarantees. Moreover, AFDC covers a smaller proportion of poor children, less than 60 percent now as opposed to 80 percent in the early 1970s. These trends could well continue as states, ever sensitive to the welfare magnet phenomenon, attempt to maintain their position vis-a-vis one another respecting the generosity of their public assistance programs.<sup>35</sup> While states compete to shove the problem under the rug (i.e., into another state), the proportion of all children who are poor has increased from about 15 percent in the mid-1970s to about 20 percent today.<sup>36</sup>

In short, welfare remains a terrible way to help the needy. It leaves children impoverished and encourages dependence. There must be a better way and the policy community would do well to focus its energies on funding innovative solutions to child poverty and welfare dependency.

FOOTNOTES

<sup>1</sup> Henry J. Arron, *Politics and the Professors* (Washington, D.C., Brookings Institution, 1978), p. 159. The "members of the tribe" refers to anyone who wants answers to complex social and political questions and the "witch doctors" refers to those who try to provide those answers.  
<sup>2</sup> Haverman, *Poverty Policy and Poverty Research, 1965-1980: The Great Society and the Social Sciences* (Madison: University of Wisconsin Press, 1987), p. 33.  
<sup>3</sup> See Arron, *Politics and the Professors*.  
<sup>4</sup> Friedrich Hayek, *The Fatal Conceit* (Chicago: University of Chicago Press, 1989).  
<sup>5</sup> See, for example, Charles Murray, *Losing Ground: American Social Policy, 1950-1980* (New York: Basic Books, 1984).  
<sup>6</sup> Heckman, "Social Science Research and Policy," *Journal of Human Resources*, 25, no. 2 (Spring 1990), p. 301.  
<sup>7</sup> U.S. House of Representatives, Committee on Ways and Means, 1991 Green Book (Washington, D.C.: GPO, 1991), p. 597.  
<sup>8</sup> For a detailed account of the black migration to Chicago, see Nicholas Lemann, *The Promised Land* (New York: Alfred A. Knopf, 1991).  
<sup>9</sup> Richard Nixon, "Proposals for Welfare Reform," U.S. House of Representatives, 91st Congress, 1st session, Document no. 91-146, p. 2.  
<sup>10</sup> "Poverty Status and Receipt of Welfare among Migrants and Nonmigrants in Large Cities," *American Sociological Review* 39 (February 1974), 46-47.  
<sup>11</sup> "A Survey of the Literature on the Migration Impact of State and Local Policies," *Public Finance* 34 (1979), 69-84.  
<sup>12</sup> Nathan Glazer, *Migration and Welfare*, a report prepared for the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Income Security Policy, under contract no. HHS-100-86-0021 (David Ellwood and Robert Lennan, principal investigators), Washington, D.C., 1987, p. 23.

<sup>13</sup> "Federalism and Welfare Reform: The Determinations of Interstate Differences in Poverty Rates and Benefit Levels," paper prepared for delivery at the 1987 Annual Meeting of the American Political Science Association, Chicago, September 3-6, 1987, p. 25. See also Paul Peterson and Mark Rom, *Welfare Magnets: A New Case for a National Standard* (Washington, D.C.: Brookings Institution, 1990); and Robert Moffitt, *Incentive Effects of the U.S. Welfare System: A Review*, IRP Special Report no. 48, University of Wisconsin-Madison, 1991. These works had not been published at the height of the Wisconsin debate.

<sup>14</sup> Voss, "Migration of Low-Income Families and Individuals," Applied Population Laboratory, Department of Rural Sociology, University of Wisconsin-Madison, 1985, pp. 13-14.

<sup>15</sup> Voss, "A Demographic Portrait of Wisconsin's People," *In State Policy Choices: The Wisconsin Experience*, ed. Sheldon Danziger and John F. Witte (Madison: University of Wisconsin Press, 1988), p. 92.

<sup>16</sup> Wisconsin Expenditure Commission, *The Migration Impact of Wisconsin's AFDC Benefit Levels: A Report to the Wisconsin Expenditure Commission by the Welfare Magnet Study Committee* (Madison: Wisconsin Department of Administration, 1986). This report is hereafter referred to as the *WEC Report*. It is useful to distinguish between the *welfare motivated in-migrant* and the *welfare-influenced in-migrant*. The former is likely to have moved to Wisconsin primarily—if not solely—for the higher AFDC benefits. The latter may have taken the higher benefits into consideration but was also influenced by other factors, such as labor market opportunities and quality-of-life considerations. The distinction is not a trivial one. *Welfare-motivated in-migrants* can be expected to respond to policy changes designed to reduce the magnet phenomenon. For the *welfare-influenced in-migrant*, the response would depend on how dramatic the new policy was (e.g., how deeply benefits were cut and for how long). And no effect can be anticipated among low-income migrants (who eventually apply for welfare) who move to Wisconsin without considering the welfare differential.

<sup>17</sup> *WEC Report*, Executive Summary, p. v.

<sup>18</sup> *Ibid.*, p. iv.

<sup>19</sup> The authors of the report identified a number of defects in the survey. They had taken shortcuts in preparing and analyzing this data, and had no comparison data for other jurisdictions or time periods. Aware of the selectivity problems in the sample, they planned to replicate the survey at a later date with a broader sample, such as all low-income female-headed migrant families, rather than merely those applying for welfare. And they felt that to obtain a more complete understanding of the migration phenomenon, it was essential to track the applicants over time, to discover whether in fact they made use of welfare, where they resided, and if and when they obtained jobs.

<sup>20</sup> See Glazer, *Migration and Welfare*, p. 22.

<sup>21</sup> Wisconsin Policy Research Institute, *Welfare In-Migration in Wisconsin: Two Reports*. The first report, titled *Welfare In-Migration: A Four-County Report*, by James Wahner and Jerome Stepaniak, is hereafter cited as *Four-County Report*. The second report in this document, titled *The Migration Impact of Wisconsin's AFDC Benefit Levels: A Re-Examination*, by Richard Cebula and Michael La Velle, is cited hereinafter as the *Re-Examination Report*. Both were published by the Wisconsin Policy Research Institute, Milwaukee, Wis., 1988.

<sup>22</sup> *Four-County Report*, p. 7.

<sup>23</sup> *WEC Report*, Table 2A, p. 104.

<sup>24</sup> Paul Voss and I submitted proposals to DHSS in 1987 and 1988, to no avail.

<sup>25</sup> *Re-Examination Report*, pp. 2, 3.

<sup>26</sup> Wisconsin Policy Research Institute, *The Financial Impact of Out-of-State-Based Welfare In-Migration on Wisconsin Taxpayers*, by Richard Cebula (Milwaukee, Wis.: WPRI, 1989). Hereafter cited as *Financial Impact*.

<sup>27</sup> *Financial Impact* states that the in-migration cases "are shown to result in an overall additional aggregate cost (burden) per year to Wisconsin taxpayers of approximately \$129 million" (p. 37).

<sup>28</sup> This conclusion is based on conversations with Neil Gleason and Ed Mason, analysts in the Wisconsin DHSS, who had provided the data for the *Financial Impact*.

<sup>29</sup> See Mary Jo Base and David Ellwood, "Slipping Into and Out of Poverty: The Dynamics of Spells," *Journal of Human Resources*, 21, no. 1 (Winter 1986), 1-23.

<sup>30</sup> An unpublished work in progress. Preliminary results suggest that those welfare applicants who

said they came to Wisconsin in 1986 to seek better economic opportunities did, in fact, demonstrate a greater attachment to the labor force in subsequent years than those who did admit that the welfare differential motivated their move. Thomas Barton, while writing his Ph.D. dissertation at the University of Wisconsin-Madison, found that about 80 percent of AFDC entrants in Kenosha County, Wis., exited from the welfare rolls of that county at least once over the subsequent 30 months. The exit rate for nonnatives was higher than for those who always were Wisconsin residents. This finding, if confirmed, might explain a curious anomaly. Except for Milwaukee, the AFDC rolls in what were considered "magnet" counties—because of their size and proximity to Illinois—fell by 20 to 25 percent between 1986 and 1989. In Milwaukee, the caseload also fell, but only by 6 percent.

<sup>31</sup> Calculated from data included in the 1990 *Green Book*.

<sup>32</sup> Actual caseload figures and expenditures are derived from Wisconsin DHSS management reports.

<sup>33</sup> Data from *WEC Report*.

<sup>34</sup> Officials in Dane County (the site of the state capital) have noted a dramatic influx of low-income minority families in the past several years. For example, public school officials note that the number of elementary school children who experience episodes of homelessness—80 percent of whom are minorities and in-migrants—has been doubling each year since 1987, when 70 children in the county became homeless. There is considerable speculation that the "new" migration flow is from those urban areas already infested with crack cocaine (e.g., Chicago, Milwaukee) to middle-size cities that look safer to economically disadvantaged parents. Some have labeled this the secondary-city migration pattern.

<sup>35</sup> Only one state, California, maintained the real value of its AFDC guarantee over the 1970-1990 period (1991 *Green Book*, p. 601).

<sup>36</sup> *Ibid.*, p. 1051.

The PRESIDING OFFICER. All the time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1726) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair. The PRESIDING OFFICER. The Senator from Arizona is recognized.

#### AMENDMENT NO. 1727

(Purpose: To provide a credit against tax for employers who provide on-site day-care facilities for dependents of their employees)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1727.

Mr. DECONCINI. 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 end of title I, insert:

#### SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES; INCREASE IN CORPORATE MINIMUM TAX RATE.

(a) ALLOWANCE OF CREDIT.—Subpart D of part V of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

#### "SEC. 45. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed \$150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly changeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

If the recapture event occurs in:	The applicable recapture percentage is:
Years 1-3 .....	100
Years 4 .....	85
Years 5 .....	70
Years 6 .....	55

Years 7 .....	40
Years 8 .....	25
Years 9 and 10 .....	10
Years 11 and thereafter .....	0.

“(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

“(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term ‘recapture event’ means—

“(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

“(B) CHANGE OF OWNERSHIP.—

“(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayers’ interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

“(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

“(4) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

“(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

“(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

“(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

“(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

“(f) NO DOUBLE BENEFIT.—

“(1) REDUCTION IN BASIS.—For purposes of this subtitle—

“(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

“(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

“(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

“(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996.”

(b) INCREASE IN CORPORATE MINIMUM TAX RATE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking “20 percent” and inserting “20.3 percent”.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking “plus” at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7), and inserting in lieu thereof a comma and “plus”, and

(C) by adding at the end thereof the following new paragraph:

“(8) the employer on-site day-care facility credit determined under section 45.”

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 45. Employer on-site day-care facility credit.”

(d) 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 and after the date of the enactment of this Act.

(2) MINIMUM TAX.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1991.

Mr. DECONCINI. Mr. President, this amendment deals with a child care tax credit for businesses, for employers.

In 1990, the Congress passed the Child Care and Development Block Grant Program, which helps low-income parents afford child care. It also increases the number of child care slots available throughout this country, and it seeks to improve the quality of child care throughout this Nation. It is the first real major step, from the Federal level, to do something about child care. This is a landmark act, but it provides no incentives for businesses to offer child care services to their employees.

The measure before you now encourages private sector involvement by offering employers a tax credit to provide on-site or near-site child care for their employees. We are a country that has almost 6 million employers, 136,000 of which have 100 or more employees each. That is a figure from the Department of Labor. Of that number, only about 5,600 of those employers provide some kind of child care support to their employees, mostly in the form of child care information and referral.

Only about 1,400 corporations fund on-site or nearby child care facilities for their employees.

The amendment that is before you would provide a tax credit of 50 percent, with a maximum limit of \$150,000, a one-time tax credit, not every year, one time, for employers to provide on-site or near-site child care for the children of their employees. The credit will be used for expenses related to the acquisition, construction, rehabilitation or expansion of an on-site or near-site child care center.

The U.S. Government would recapture the cost, on a reducing scale, if the facility does not operate for a period of at least 10 years as a child care center.

As pointed out with this chart, if a business did not keep the building as a child care facility for more than 3 years, they would have to pay back the full 100 percent of the tax credit that they received. After 10 years, then they are off the hook. But in 10 years they will really have invested in the children of this country.

It is estimated by the Joint Economic Committee that the cost would be \$400 million over a 5-year period. I would pay for this by increasing the corporate alternative minimum tax rate by three-tenths of 1 percent. The corporate alternative minimum rate is currently 20 percent. This amendment would raise it 20.3 percent, three-tenths of 1 percent.

Who would qualify? Who would be the employees who would qualify for this if the employer were encouraged to create such a center?

At least 30 percent of the children enrolled must be dependents of the company’s employees. The center must be opened to children of all the employees, regardless of their income bracket. The facility must operate in compliance with the State laws and regulations of a licensed day care center and, in the case of multiple employers, the facility must be located on the premises of one of the employers and within a reasonable distance from the premises of the other employer.

Why do we need a tax credit? Even with the enactment of the 1990 child care legislation, there is an urgent need in this country for more child care availability. There are 20.8 million children in America under the age of 6 years whose mothers are currently in the work force. Although we have no hard data on the number of child care slots available in this country today, a 1990 Children’s Defense Fund survey found that 3.8 million children can be cared for in the licensed child care centers we have in the Nation today. More than five times that number of children under 6 years of age have mothers who currently work. Over 58 percent of America’s mothers with children under 6, are in the work force. That number is projected to increase significantly in

the decades ahead, and so is the number of children who need child care.

In my State of Arizona we have only enough State-approved child care spaces to serve 42 percent of the 200,000 children under the age of 6 years who need child care. According to a recent study by the Department of Labor, at least 1.1 million mothers were not in the work force in 1986 because of a primary reason: They had problems finding child care. We could increase our output, we could increase our revenues, if more businesses became involved in child care services.

It is a business investment. We want to encourage business to invest in our children.

Harry L. Freeman, executive vice president of the American Express Co., said this about child care:

American Express is involved because the child care problems in America have reached crisis proportions. Corporations cannot ignore their responsibility \* \* \* not if they want to attract and retain productive employees \* \* \* not if they want to do business in economically healthy communities. The private sector must operate as a partner with the public sector to see to it that the quality and supply of child care meet the growing needs of our Nation.

That is an officer of the American Express Co., saying that child care is good for America, good for their company, and good for competition. Most U.S. businesses have steered clear of child care. But those who do offer such services all report that their child care programs improve the retention, recruitment, attendance, morale, and productivity of those employees.

In a study by IBM, Sears, Delta Airlines, and Coca-Cola, productivity for middle management increased between 7 and 16 percent after the companies began offering child care services.

A company named Photo Corporation of America, a photography company in North Carolina, saved \$30,000 in recruitment costs in 1 year because of the child care services that company offered. Because of PCA's on-site center they had 3,500 walk-in applicants in 1 year looking for jobs. Because of the child care center alone, those applicants walked in the door.

High employee turnover is a major factor contributing to lagging U.S. productivity. The Merck Co., which has offered near-site child care since 1979, reports that turnover among employees who use their child care centers is significantly lower than the turnover rate among those who do not use the center. In a 5-year study, Merck Co., computed the cost of turnover to be between 1.5 to 2 times the average salary of the professional position in question.

Sioux Valley Hospital opened a child care center at the hospital in 1980. The hospital estimates the value of the reduced absenteeism of child care users to be conservatively worth \$90,000 per year. That is \$90,000 this hospital saved each year.

In the most exhaustive cost-benefit study ever conducted on a corporate onsite child care center, Union Bank in Monterey Park, CA, reported an estimated savings of more than \$4 for every \$3 spent in the first year of the child care program. The savings came primarily from reduced turnover and absenteeism and shortened maternity leaves.

In a comprehensive survey of 415 businesses, most of which offered onsite or near-site child care, the companies overwhelmingly reported that their child care services provided tangible corporate payoffs. This is exactly displayed here in this chart, which shows 65 percent of the companies reported that child care had a positive effect on turnover. Sixty-five percent realized their investment in child care had a positive effect. Fifty-three percent reported it had had a positive effect on absenteeism—53 percent. Eighty-five percent reported it had a positive effect on recruitment. Ninety percent reported it had a positive effect just on the morale of its employees. And 49 percent reported a positive impact on productivity.

That is not bad, I would say. And to me that makes the case.

Mr. BENTSEN. Has the Senator yielded the floor?

Mr. DECONCINI. I yield the floor.

Mr. BENTSEN. I certainly agree with my distinguished friend from Arizona that Government should play a role in seeing that we have affordable and available care. That is one of the reasons I have always supported a dependent care credit and an exclusion for employee-provided care. Those two provisions cost the Federal Government \$3 billion this year alone.

One of the things that worries me, though, is this 50 percent tax credit. That is a very generous subsidy. I am not convinced that a subsidy of this magnitude is needed to ensure affordable and available child care. In addition, the bill before us now already has in it a new \$300 per child tax credit as a permanent middle-income tax cut. In addition, it expands and it simplifies the earned-income tax credit.

I should also note that the current subsidies are aimed at giving the tax relief to the family and not to the provider of the service. That is an essential point. Under this amendment, the subsidy goes to the provider of the service. In the past we have provided the tax benefit to the family in order to permit the consideration of a range of choice and the selection of the approach that best fits the family's situation. The studies have shown that a subsidy is more effective when given directly to the taxpayer rather than to the supplier of the service. This avoids some of the inefficiencies that are associated with subsidizing construction and development of facilities.

I also must say I have some concern about the mechanics of the bill. For in-

stance, I am not sure that the prohibition against favoring higher income employees is a workable one.

Overall, I commend the leadership of my friend from Arizona on this issue. I think his credit idea is worthy of pursuit. However, I believe we ought to work with the concept to see if we cannot make it more cost-effective. Let us also find a revenue offset that will enjoy the support of the majority of this body. I know when we are talking about increasing the alternative minimum tax for corporations there is a great deal of concern expressed by the business community. So I will state with some reluctance that I oppose the amendment of the Senator.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the distinguished chairman is correct in saying that indeed a direct benefit to the families and children is more important, and it is very important. And, though I voted yesterday on a different side on what to do with taxing the wealthy of this country, I did it because I thought deficit reduction was more important.

But I applaud the Senator from Texas for his effort to give to the taxpayers, the parents of children, a tax credit. My amendment does not touch that. It does not touch it at all. And the offset by which the chairman is so scrutinizing, each amendment, and I understand why he does that, is taken from the corporations that will get the benefit.

So here we have a tax credit. Why do we want a tax credit? Why do we want the suppliers to have an incentive?

It seems to me most reasonable and in the spirit of corporate America, as well for the good for this country and for the good for the children of America, to provide incentives for employers to offer onsite and nearsite child care.

We did that in this body 9 years ago when we established a child care center for the children of Senate employees, and it has been successful. The Senate does not pay for the operations of it. The Senate did put up the starting seed money and does supply the place for it, but each person who puts their child there pays the full share unless they fall into a low-income bracket, and then there are some scholarships available for that.

To me that makes sense. Here the employee is going to pay for this center. What is the employer going to do? They are going to provide the space and that is all. They get an incentive to do that, a one-time tax credit.

Is that not a wise investment of our tax policy? Should not our tax policy promote child care, not only for the parents of the children, but for those who might provide it? I submit that it should. This is not a rich employee's amendment. The bill specifically pro-

hibits any discrimination in favor of the wealthier employee. So all employees will be able to participate if the employer establishes an onsite or nearsite child care center.

We know from experience that onsite child care works and we have some companies that have done it without a tax credit. Very few companies offer it, but those companies realize the benefit that they receive from this service and they are willing to do it without the tax credit. But there are almost 6 million employers, and 136,000 employers with over 100 employees, who have not elected to provide child care assistance for the employees and the children of the employees. This amendment would help them do it if they so wished.

I hope the distinguished chairman will accept it. I have provided a reasonable offset, and I think it really is in the spirit of economic growth in this country to encourage the economy to move in the right direction. It certainly is beneficial to business and most of all it is beneficial to the most precious and most valuable asset that any society has, and that is its children.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, I understand the Senator's concern about child care, and I share it with him. We are making substantial headway on this issue. However, I also know that the proposed means of paying for this amendment runs counter to some of the things we are trying to do in this bill. In this time of recession, we are attempting to ease some of the burden on business. That is particularly true with respect to the alternative minimum tax, I would say. The bill includes a provision—one that is also included in the President's budget—that would alleviate a current problem with the tax base for the alternative minimum tax. The provision would eliminate the separate depreciation schedule under the so-called adjusted current earnings, or the ACE provision of the minimum tax. This proposed amendment goes in the opposite direction and, frankly, I think in the wrong direction.

I would have liked to have considered further modifications to the minimum tax to try to help the economic recovery. But frankly, the funds were not there. I certainly do not want to see us go in the other direction on the minimum tax, particularly during a recession. That would cause me considerable concern.

I will say to the distinguished Senator from Arizona that the Senator from Oklahoma is very interested in participating in the debate and is on the way.

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

Mr. BENTSEN. Yes.

Mr. DECONCINI. I understand the Senator's remarks about going in a dif-

ferent direction and indeed this is a three-tenths of 1 percent increase to pay for child care. Is that asking a lot? I do not think it is.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENTSEN. Mr. President, I ask unanimous consent to temporarily set aside the amendment pending for the consideration of a further amendment to be offered by the Senator from Arizona that will be received by the managers.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENTSEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 1727 was set aside temporarily. A call for the regular order will bring it back.

Mr. BENTSEN. Mr. President, I call for the regular order.

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

Mr. BENTSEN. How much time remains, to the manager?

The PRESIDING OFFICER. There is no time limit.

Mr. BENTSEN. We have no time limit.

The PRESIDING OFFICER. There is no time limit.

Mr. BENTSEN. I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the distinguished chairman of the committee.

I have been listening to the discussion on the proposed amendment. Let me say it pains me that I cannot in conscience support this amendment because half of it I very strongly support: That is, the provision that would provide a child care tax credit for on-site facilities in businesses in this country. I cannot imagine anyone who would oppose that particular provision on its merits, standing alone. But I must oppose the proposed way to pay for this amendment, and I hope that the author will consider recrafting it.

Mr. President, it is very easy to say that corporations should pay some minimum amount of tax. That has a very popular ring to it. I do not think

there is anyone in this Chamber who would not support requiring large corporations making a profit to pay some minimum amount of tax.

In 1986 the Finance Committee in the tax intended—and indeed, I believe it was the intent of all Senators—to do something in the 1986 act about the abuses that were prevalent at that time. However, because of the way that the alternative minimum tax was written, it has had some unintended results.

We have had a series of hearings in my subcommittee, the Tax Policy Subcommittee of the Finance Committee, on this very subject. Many knowledgeable witnesses about this particular tax have come before our committee to testify.

So I hope that my colleagues and their staff members who are listening will be alert to the potential consequences of this amendment in terms of an increase in the alternative minimum tax rate.

In 1986, it was felt that very few companies would fall under the alternative minimum tax. In fact, experience is now showing us that this expectation was incorrect. As more and more American companies are investing, buying new plant and equipment, as more and more American companies are meeting the new environmental standards which we have wisely required American industry to meet, they are having to spend more and more funds, invest more and more, to be competitive in the world marketplace. This is something which we want to see happen.

So as companies raise their level of investment, to be competitive, to make themselves up to date in terms of modern technology and equipment, and as companies raise their level of investment to meet acceptable environmental standards, more and more of them are falling under the alternative minimum tax. When you use tax incentives to invest, you then find yourself having used what is defined as a preference item under the alternative minimal tax, so you fall under that tax structure.

So instead of having 1, or 2, or 3, or 4 percent of American companies, especially major companies in the manufacturing area where we are having a desperate problem in terms of our ability to meet in the international marketplace, falling under the alternative minimum tax, we now have 40 to 60 percent of all large American companies falling under the alternative minimum tax.

So that is one thing we should bear in mind. We are not talking about a few large companies that have made large profits avoiding taxes that are now falling under the alternative minimum tax. Instead, we are talking about a very significant portion of all American manufacturers.

Now, something else has happened. Along came a recession. The effect of the recession on the alternative minimum taxpayer has really been debilitating. When a company pays the alternative minimum tax, it accumulates credits that can be applied against regular corporate tax liability. The rationale for this is that such companies have been charged additional minimum tax because they have made investments in new plant and equipment or new technologies to meet environmental standards, for example; so they are given credits for later use.

These credits can ultimately be applied against their normal corporate income tax. But here is the problem. The recession comes along, and now many of these companies that have had a very high rate of capital investment over the last 3 or 4 years, that have all of these preferences charged against them, find themselves not making a profit. Some of them are actually making a loss. This means they do not pay regular corporate tax because they are losing money. They cannot use their credits; in other words, they cannot recapture their investment costs under the regular corporate tax.

According to witness after witness, strong example after example, the irony is this: You have a company, an important manufacturing concern providing jobs in this country, now not making money. They are doing just what we want them to do to keep ourselves competitive in the world marketplace, investing in plant equipment and technology so they can compete in the world marketplace.

Along comes the recession. These businesses are no longer making money; perhaps they are struggling still to keep up the rate of investment, borrowing to do it, because they know when the recession is off they still have to be competitive. They are now being penalized under the alternative minimum tax, unable to recoup the cost of capital investment.

So those companies that most desperately need our help right now are being hit in a very unintended way by the alternative minimum tax.

So instead of adding to the burdens right now, it had been my hope, especially after the testimony we had in our subcommittee, that we could make some amendments to the alternative minimum tax to allow companies to be relieved from this unintended consequence—especially those companies being hurt by the recession, and those companies that are carrying on a high rate of capital investment—by allowing them perhaps to use those accumulated AMT credits against their alternative minimum tax liability instead of against their normal corporate income tax.

So all across the midsection of this country, including States like that of the distinguished Presiding Officer, we

have company after company that have done what we asked them to do—invest in order to compete in the world marketplace; invest in order to meet environmental standards—that are now losing money, that are having terrible difficulties, that are now being hit the second time by the AMT in a way that no one ever thought they would be hit because we did not understand what would happen under the AMT during recession.

Just to give some examples of what this is doing in terms of our ability to compete in the world marketplace, I cite some studies done by the distinguished scholars at the University of Maryland that have indicated that of these companies—I have indicated 40 to 60 percent of our major manufacturing companies are now paying this tax—now have a decided disadvantage in terms of the cost of capital in the world marketplace.

Overall, the average manufacturer who is not paying AMT in the United States—this, I think spells it out graphically for all of my colleagues who are following this debate—the average company now paying AMT in the United States, if it makes an investment, buys a new piece of equipment, it will recover over 5 years 36 percent of the cost of that investment under the AMT—36 percent.

If the same company were to invest in the same piece of equipment in Brazil, for example, it would recover 67 percent of the cost of its investment in the same 5 years. In Germany, 87 percent in 5 years; in Japan, 64 percent; in Korea, 94 percent.

Mr. President, it is very clear for all to see that if we want to remain in the manufacturing business, if we want to be able to compete in the world marketplace, we cannot continue to have a tax code, especially in the middle of a recession, which negatively impacts the very companies that need to compete right. The AMT system has such negative effects because it allows them to recover less than half of the rate of the cost of their investment in the 5-year period as will be recovered in other countries.

To take a couple of specific examples: Again, in the University of Maryland study, which was discussed by many of our witnesses, the researchers looked at several different segments of the manufacturing business. They took several examples, 15, I believe. Let me discuss a couple of them.

Let us talk about robotic equipment in factories. If the American company invests in robotic equipment in factories to stay competitive, to stay in business, to take on the Germans and the Japanese, French and Italians, in the world marketplace, the American company will recover only 46 percent of the cost of its investment in 5 years. In Germany, it is 81 percent; in Japan, 60 percent. The Korean laws so encourage

this kind of investment that they allow more than 100 percent recovery.

One conclusion is very clear; we are not going to be in the business of making robotic equipment and competing in the world marketplace very long with other companies able to recover so much more of their cost of investment.

Let us discuss scrubbers used to generate electricity. Again, we are talking about environmental equipment, making environmental investments. A company in the United States that makes this investment in environmental equipment will recover 17 percent of the cost of that investment in the first 5 years. In Germany, 53 percent; Japan, 64 percent; Brazil, 90 percent; and Korea, 98 percent.

I could go on with industry after industry. Engine blocks: Only about 35 percent of the cost of that investment of a company making engine blocks in this country is recovered over 5 years under the AMT. The same company making engine blocks in Germany will recover between 60 and 70 percent; in Japan, over 80 percent; in Korea, over 90 percent. So we are not going to be in the engine block business very long, either, unless changes in the AMT are made.

We sit here day after day and we talk about the inability of this country to compete with others in the world. We talk about the Japanese; we talk about the European Community; we talk about their unfair trade practices. And in some cases, there are unfair trade practices. We have to have a more level playing field.

But, for goodness sake, we ought to have the common sense to stop stacking the deck against ourselves with our own tax laws. When in the world are we going to wake up to the fact that we have to think internationally when it comes to our tax laws? If we are going to double the cost of capital investment in this country compared to Japan or Germany, of course, we will lose in that competition. That is not something anyone else did to us. That is something we are doing to ourselves. We have met the enemy, and it is us.

I am alarmed that we are considering making the AMT even slightly more burdensome, at a time when we have learned that the AMT is not working as it should; that it is not working specifically because of the recessionary period that we are in, bringing many more companies into the net than intended. Such a change would be debilitating to our ability to compete in world trade at a time when thousands of people are being laid off across this country.

We think about the restructuring of the large companies—the IBM's, GM's, companies in the manufacturing business all across this country. They are instituting massive restructuring, laying off of thousands of workers, people

no longer able to have their health care coverage; we are all aware of the other problems in this country as a result of the restructuring of our economy. For us to consider doing something that would make the situation worse, when we need to be reforming the AMT, surprises me. Yes, we must make sure that no company uses a loophole to get out of paying taxes when they are making high profits. No one wants that to happen. Yes, we must keep the loophole closed, but we must also stop the unintended consequences.

Mr. President, I know that if I walked on this floor without knowing anything else other than the fact that you want to provide tax credit for child care, and you want to pay for it by raising something called the "minimum tax", if I walked in here without knowing anymore about it than that, I would vote for this amendment. And it is very hard for me to oppose this amendment, even knowing what I know about AMT, because of the strong feeling that I have for the need to provide more child care.

I salute the Senator from Arizona for his amendment. There has been no one in this body who has, year after year, fought harder to provide adequate child care for the people of this country, the children of this country, for working mothers and fathers. That is a noble endeavor on his part. He deserves the thanks of the American people for it.

But I must say to him that I wish he would consider withdrawing this amendment at this time, recrafting it to find some other way of paying for it. We are not going to have to worry about providing child care for those mothers and fathers if they do not have a job, and if they are not able to support their children.

We are locked in an economic struggle, and we must not—we must not—for any reason, do something that will inhibit our ability to compete. Please, I say to my colleagues, do not do this. Do not put something in this bill that will diminish its overall impact. There are many good things in this bill, some other changes in the AMT, some other incentives here, to encourage investments to create jobs and to help us compete again.

But for all of the rhetoric we hear on this floor about what can we do to start taking on our competitors on a level playing field—in Germany, Japan, and other places in Europe and around the world—for us to now shoot ourselves in the foot by doing something that will make it even harder for us to compete in the world marketplace would be a serious mistake.

So I appeal to my colleagues, those who are listening to me, and I appeal to those members of the staff to alert Members who might not be able to be listening to this debate because of other duties at this moment: Please think, before you vote on this amend-

ment, about its real effect. Let us not just do what is easy to do. It is easy to vote for an amendment like this. But let us think before we do it, and think about the real economic interests and the need to build our economy, so that we can afford the social programs that we all want to have for our children and our grandchildren and for working parents. Let us think about it, and let us reject this amendment. Or let us find a way of recrafting this amendment to take care of the child care tax credits, without putting another weight on the back of those companies that are trying to compete, that are trying to invest, that are trying to meet environmental standards, at a very time when they need this help the most. In this way, we will save jobs for the workers who work in those facilities.

Mr. DECONCINI. Mr. President, I thank my friend from Oklahoma. I understand his deep commitment to providing incentives to business. He has been a leader in that area, there is no question about it.

His argument today is perhaps a very sound argument for altering the corporate alternative minimum tax that we are talking about raising three-tenths of 1 percent today. If there is a problem with that—and I understand, from what the Senator from Oklahoma said, there is, then we should look at it. I have heard some complaints. And the Senator from Oklahoma indicates that there have been hearings on this and something needs to be done. Today we are talking about raising the corporate alternative minimum tax three-tenths of 1 percent—is this going to be such a burden that it is going to make us uncompetitive with Japan, France, and Italy? I submit to you that it is not.

I submit to you that what it is is an investment in the children of the United States. What makes a country more competitive than to invest in the early years of our children's upbringing and education? I do not think anything equals this. In any study you look at, it is the early years that count in a child's development.

We are not tipping the balance in favor of Japan with my amendment. Japan has child care centers, and they use them to a far greater extent than we do in the United States. Maybe that is why they are more competitive than we are. The same is true in Germany and the Scandinavian countries.

Here we are not mandating anybody to do anything. What we are saying is that if you believe in investing in your employee's children, and if you think that it is going to help your productivity and your employees' morale and your rate of absenteeism, as I showed on the chart here a minute ago, then make the investment, and we are going to give you a little credit, 50 percent of what you invest. If you invest \$1,000,

you are going to get a \$500 credit. This is what it does for you.

Is that not important when you think of what is happening with companies offering child care? The turnover, 65 percent less; the absenteeism, 53 percent less for child care centers that are onsite; recruitment, 85 percent more; morale, an almost 100-percent improvement.

So I hope that my colleagues will agree with this Senator that there is no better investment than the children of America, and this is the time to do it. We are not overburdening our corporations and businesses. If there is a problem with the alternative minimum income tax on corporations, then the Finance Committee will alter it or bring it out for debate. I am not totally convinced that that is a problem. I think companies should pay a minimum tax if they make money. That is the intent of it. If there are problems, this three-tenths of 1 percent is not accentuating the problem at all. It invests in the future of America, our children, and it also gives a tremendous incentive to the corporations, because their productivity alone is up 50 percent.

Mr. HATCH. Mr. President, I reluctantly rise today to voice my concern and opposition to the amendment of the Senator from Arizona [Mr. DECONCINI].

I applaud the leadership of Senator DECONCINI in seeking to extend the availability of child care facilities offered onsite by employers. This is to commend, and I join him in my concern that we offer employers incentives to establish such facilities.

Unfortunately, Mr. President, this worthy provision has been coupled with a very harmful offset, an increase in the alternative minimum tax rate for corporations. I must object strongly to this offset.

Many of this Nation's corporations are today struggling to stay profitable and competitive in today's difficult marketplace. Unfortunately, one of the biggest hurdles preventing many of these companies from recovering from the recession is the alternative minimum tax. This tax, while well intentioned when placed in the tax law in 1986, has had a very adverse impact on many American corporations, especially capital intensive companies such as those in most manufacturing industries.

The alternative minimum tax on corporations is already too onerous a burden on our corporations. It effectively places a higher marginal tax rate on those companies least able to afford it. To raise this tax rate, especially at a recessionary time like this, and on a bill such as this one where we are supposed to be finding ways to stimulate the economy, is exactly opposite from what we should be doing.

Moreover, the idea of using an increase in the alternative minimum tax,

even a small one, for purposes of offsetting a child care credit is poor tax policy. By doing so, Mr. President, we would be asking every corporation that is paying the alternative minimum tax to subsidize other corporations who happen to have the wherewithal to establish a child care center. It is simply not fair to ask that portion of our corporate community who is currently struggling the most in the current recession to shoulder the entire burden of those companies who can afford to start these child care centers.

Again, Mr. President, I support what the Senator from Arizona is trying to do here with this tax credit. It is a good idea, and I pledge to work with him in finding a way to pass such an incentive. However, we cannot do it at the price of further limiting the ability of our most distressed companies in trying to compete and to lead us out of this recession. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, I ask unanimous consent that we temporarily set this amendment aside and consider a further amendment to be offered by the Senator from Arizona.

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

Mr. DECONCINI. Mr. President, I thank the chairman for permitting me to proceed to another amendment.

AMENDMENT NO. 1728

(Purpose: To permit penalty-free distributions from qualified retirement plans for unemployed individuals, and for other purposes)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. KOHL, and Mr. LAUTENBERG, proposes an amendment numbered 1728.

Mr. DECONCINI. 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 662, between lines 11 and 12, insert: (e) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

“(E) 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.”

On page 662, line 12, strike “(e)” and insert “(f)”.

On page 961, line 24, strike “10 percent” and insert “10.04 percent”.

Mr. DECONCINI. Mr. President, I rise to offer the following amendment to the tax relief bill. This amendment will waive the penalty for withdrawal of funds from qualified retirement plans for individuals who have received unemployment compensation for 12 consecutive weeks.

It seems as though each week, unemployment figures in States all across the country continue to escalate in the wake of the current economic recession.

The National unemployment rate in February increased to 7.3 percent, its highest level in 6 years. In my State of Arizona, the unemployment rate is even higher than that, at 9.3 percent, the highest that figure has been in almost 9 years.

A growing number of unemployed Americans are skilled workers and professionals who are finding themselves out of work for the first time in many years. Just yesterday, the Labor Department released its figures on the number of Americans who filed claims for unemployment for the first time. A staggering 459,000 Americans filed a new claim for jobless benefits.

The families of these newly unemployed workers, some of whom were previously earning healthy salaries of \$2,000-\$3,000 a month, cannot meet their household expenses on unemployment benefits which average \$169 a month.

This amendment is aimed at providing some means of relief for those individuals who may have an individual retirement account or qualified retirement plan from which they can draw in an emergency. While these funds are intended to provide some security for the future, when you have been unemployed for 3 months or longer and are at risk of losing your home or your car you may not have a choice but to withdraw from them to meet your financial obligations. We can soften that blow by eliminating the penalty for early withdrawal from these accounts.

The revenue estimate of this amendment is \$3 million, which can be offset by increasing the millionaire's surtax in this bill by four one-hundredths of 1 percent. That amounts to an average of \$6 per millionaire.

Some experts are saying that we can expect to see an improvement in the unemployment rate later this year. In the meantime, there are an estimated 9.2 million Americans out of work, struggling to feed their families and keep their households running. I urge my colleagues to support this amendment.

Let me say quickly that this particular amendment expands what the chairman has done very wisely in the committee, in respect to penalties on IRA's. If you are unemployed for a period of 12 weeks, and need to cash in

your IRA to buy food or pay rent or whatever, you are not going to have to pay the penalty.

The Senator from New Jersey, who is here on the floor, has worked on this for a long time, and we have joined hands on this amendment. I offer it on behalf of the Senator from New Jersey and myself.

Mr. KOHL. Mr. President, I rise in strong support of the pending amendment. The amendment is based on S. 693, introduced by Senator LAUTENBERG and myself last March. This bill would amend the Internal Revenue Code to exempt individuals who are involuntarily unemployed from the 10-percent surtax on early distributions from qualified pension plans and IRA's.

This makes sense in both economic and human terms. Workers, who are forced out of their jobs by layoffs or plant closings, may lose their houses, take their children out of college, forfeit their cars, or severely cut back on their purchases of basic goods and services—even though they have substantial savings in their retirement plans. The current penalties on withdrawing those savings needlessly intensify the decline in general economic activity experienced during a recession and the personal pain that a family endures when one of their breadwinners becomes unemployed.

Unfortunately, in the State of Wisconsin, this issue goes far beyond economic theory. The problem the pending amendment addresses was brought to my attention by an announcement last year that Uniroyal would shut down their Eau Claire tire production facility. Close to 1,400 Wisconsinites will lose their jobs in the plant closing.

The company has informed its employees that, when they are let go, they may discontinue retirement savings and use a termination allowance to meet current living expenses. However, if an employee chooses to take the immediate termination benefit, it will be subject to a 10-percent Federal penalty and a State of Wisconsin surtax equal to 33 percent of the Federal penalty.

Approximately 890 employees involved in the Uniroyal closing have accumulated savings that they cannot access without having to pay these Federal and State penalties. These are employees with years of service, with families to support, with mortgages, with the bills and obligations we all face. Many will have no choice but to take the termination allowance. Who is served when the Federal Government and the State government also take a large chunk of the money that these workers need to keep themselves and their families going?

The workers in Eau Claire are, unfortunately, not unique. Plant closings and layoffs have forced mature and skilled workers across the Nation into a financial stranglehold. The pending amendment could help loosen that.

Most of our debate today has been about how we get out of the present recession, and how to grow our economy in a way that avoids future recessions. This is an important and proper debate. However, it is not an excuse to forget the current victims of the current recession. And this amendment goes a long way toward helping them. I urge my colleagues to support it.

Mr. BENTSEN. Mr. President, I congratulate the Senator from Arizona on the amendment. I would also like to commend Senator LAUTENBERG for his leadership. I particularly appreciated his testimony before the committee last year. I think the authors of the amendment have done a good job in recognizing some of the concerns and problems in this time of recession. I have checked with the Republican side. They have no objection to it. We have no objection on this side.

[Mr. LAUTENBERG addressed the Chair.]

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. If the manager will yield, I say that I enthusiastically support this amendment. I have worked with the Senator from Arizona, as he described it, "hand in hand" because of our concerns about what happens when people are unemployed for long periods of time and have this reserve sitting there. We found rather creative ways of permitting the IRA's to be used in case of emergency, or in case of home ownership, or education, or long-term illness, and I encourage the passage of this. I was glad to hear the manager of the bill on this side say that, as far as he was concerned, it was accepted.

Mr. President, over 9 million Americans are now unemployed; 1.7 million have been out of work for more than 6 months.

In most cases, Mr. President, these Americans have been laid off not because they're poor workers, or because they don't try hard enough. They are simply the innocent victims of a troubled economy—of forces larger than themselves.

For those unlucky enough to be laid off, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And, perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. Because, while their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgage and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

Mr. President, unemployment compensation can help, but it often falls far short of families' real needs. Even if a family manages to survive on unem-

ployment compensation there may not be enough to overcome joblessness by relocating, or training for a new job.

Yet, in some cases, Mr. President, the unemployed do have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it's a life raft with a large hole, because, for those under age 59½ withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they are down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

About 1 year ago, I introduced legislation, S. 693, cosponsored by Senators BINGAMAN, INOUE, KERRY, KOHL, LEVIN, and LIEBERMAN, to allow the unemployed to make such penalty-free withdrawals. This amendment is essentially the same proposal, though it would require a somewhat longer waiting period before the unemployed become eligible.

Mr. President, I would point out that while the amendment's primary purpose is to provide relief to the unemployed, it also would increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans.

Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They are concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment, Mr. President, should reduce this concern. And that should lead to increased savings.

Mr. President, the bill before us allows for penalty-free withdrawals from retirement plans for specific compelling reasons, such as higher education, first-time home purchases and medical expenses. I hope my colleagues will agree that helping the unemployed is at least as important a goal.

Mr. BENTSEN. Mr. President, I congratulate the distinguished Senator from New Jersey for his part in the authorship of this legislation. It is some creative thinking in a time of national recession, and it is quite helpful.

I know of no objections to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is agreeing to the amendment.

The amendment (No. 1728) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1727

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I am prepared to proceed on the next amendment.

Mr. BENTSEN. There seems to be no further debate on the preceding amendment that we have for considering before this body, and I am prepared to vote on it.

Mr. President, I move to table the amendment and will be joined in by Senator BOREN on a tabling motion.

The PRESIDING OFFICER. Is there further debate?

The question is on the motion to table.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Arizona.

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 Iowa [Mr. HARKIN] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—62

Baucus	Ford	Nunn
Bentsen	Garn	Packwood
Bingaman	Glenn	Pressler
Bond	Gore	Pryor
Boren	Gramm	Rockefeller
Bradley	Hatch	Roth
Breaux	Hatfield	Rudman
Brown	Heflin	Sanford
Bumpers	Helms	Sarbanes
Burdick	Hollings	Sasser
Burns	Jeffords	Seymour
Chafee	Kassebaum	Shelby
Coats	Kennedy	Simpson
Cochran	Lott	Smith
Cohen	Lugar	Specter
Craig	Mack	Stevens
Cranston	McCain	Symms
Danforth	McConnell	Thurmond
Domenici	Mitchell	Wallop
Durenberger	Moynihan	Warner
Exon	Nickles	

NAYS—35

Adams	DeConcini	Inouye
Akaka	Dixon	Johnston
Biden	Dodd	Kasten
Bryan	Dole	Kerrey
Byrd	Fowler	Kerry
Conrad	Gorton	Kohl
D'Amato	Graham	Lautenberg
Daschle	Grassley	Levin

Lieberman	Pell	Wellstone
Metzenbaum	Reid	Wirth
Mikulski	Robb	Wofford
Markowski	Simon	

## NOT VOTING—3

Harkin	Leahy	Riegle
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So the motion to lay on the table the amendment (No. 1727) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

## AMENDMENT NO. 1721

(Purpose: To provide a substitute amendment which removes certain revenue raisers and includes defense caps and a freeze on domestic and international discretionary spending)

Mr. KASTEN. Mr. President, I would like to call up amendment 1721 on behalf of myself, Senator BURNS, Senator LOTT, Senator NICKLES, and Senator SMITH, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. BURNS, Mr. SMITH, Mr. LOTT, and Mr. NICKLES, proposes an amendment numbered 1721.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed beginning on page 5394 in the RECORD of March 13, 1992.)

Mr. KASTEN. Mr. President, first of all, I ask unanimous consent that the time limit on this amendment be 40 minutes equally divided.

Mr. BENTSEN. That has been agreed to. There is no objection. And no second-degree amendments.

## MODIFICATION TO AMENDMENT NO. 1721

Mr. KASTEN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator is modifying his amendment. It is so ordered.

The modification to amendment (No. 1721) is as follows:

## TITLE III—DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING REDUCTIONS

## SEC. 3001. REDUCTIONS IN DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING.

(a) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DEFENSE DISCRETIONARY.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, and 1996 shall not propose outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(A)(i) \$291,900,000,000 in outlays for fiscal year 1993;

(ii) \$284,000,000,000 in outlays for fiscal year 1994;

(iii) \$283,800,000,000 in outlays for fiscal year 1995; or

(iv) \$286,900,000,000 in outlays for fiscal year 1996; and

(B)(i) \$281,600,000,000 in budget authority for fiscal year 1993;

(ii) \$282,300,000,000 in budget authority for fiscal year 1994;

(iii) \$285,000,000,000 in budget authority for fiscal year 1995; or

(iv)— \$286,300,000,000 in budget authority for fiscal year 1996.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

“(j) DEFENSE SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

“(1)(A) \$291,900,000,000 in outlays for fiscal year 1993;

“(B) \$284,000,000,000 in outlays for fiscal year 1994;

“(C) \$283,800,000,000 in outlays for fiscal year 1995; or

“(D) \$286,900,000,000 in outlays for fiscal year 1996; and

“(2)(A) \$281,600,000,000 in budget authority for fiscal year 1993;

“(B) \$282,300,000,000 in budget authority for fiscal year 1994;

“(C) \$285,000,000,000 in budget authority for fiscal year 1995; or

“(D) \$286,300,000,000 in budget authority for fiscal year 1996.”.

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Notwithstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(b) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DOMESTIC AND INTERNATIONAL DISCRETIONARY ACCOUNTS.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, or 1996 shall not propose outlays or budget authority for—

(A) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) \$216,200,000,000 in outlays; or

(ii) \$189,000,000,000 in budget authority; and

(B) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) \$20,100,000,000 in outlays; or

(ii) \$21,300,000,000 in budget authority.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

“(j) DOMESTIC DISCRETIONARY SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for—

“(1) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

“(A) \$216,200,000,000 in outlays; or

“(B) \$189,000,000,000 in budget authority; and

“(2) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

“(A) \$20,100,000,000 in outlays; or

“(B) \$21,300,000,000 in budget authority.”.

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Notwithstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(c) REVISION TO SPENDING CAPS.—Within 5 days of the enactment of this Act, the Office of Management and Budget shall issue revised discretionary caps under section 601 of the Congressional Budget Act of 1974 consistent with the changes made by this Act.

Mr. KASTEN. Mr. President, the substitute amendment which I sent to the desk provides us with a stark contrast to the Senate Finance Committee bill. Instead of raising taxes and increasing the deficit, my amendment cuts taxes, limits Federal spending, and reduces the budget deficit.

Let me repeat: The Kasten amendment cuts taxes, limits Federal spending, and reduces the budget deficit.

This amendment is very simple. It takes all the Finance Committee's tax cuts and tax incentives—in a sense all of the provisions which will help the economy create jobs—and strikes all of the committee's tax increases; in essence, all of the provisions that will hurt the economy.

This amendment finances the cost of the tax cuts with spending restraint, not tax increases. It calls for the President's defense savings of \$20 billion in outlays through 1996, and \$62.4 billion in domestic discretionary and international savings, generated by a freeze in these two categories through 1996. We do not have to cut a single dime in domestic spending to pay for these tax reductions.

Let me repeat: We do not have to cut one single dime in spending in order to pay for these tax reductions. We simply have to hold spending in place, spend the same amount, 1993 to 1996 as we did in 1992, and we do not touch Social Security and we do not touch Medicare. The amendment will reduce the budget deficit over the next 5 years. The \$82

billion in spending limits more than offsets the tax cuts and provides billions for deficit reduction. By cutting taxes, limiting spending, and reducing the deficit, my amendment will create jobs for our workers.

I am offering this amendment because I think the American people have had enough of political gamesmanship. We all know the tax bill before us is a political document, not a serious economic game plan, right now at least, to create jobs.

I do not think there is one economist in the world who believes this tax bill will create jobs. In fact, most economists will tell you this is economic lunacy, to raise taxes in a recession. These so-called middle-class tax plans that raise taxes will end up costing middle class jobs. By raising the top tax rate to over 40 percent, the National Center for Policy Analysis estimates the Senate tax increase bill will cost us 233,000 jobs by 1966.

As a general proposition, I support profamily tax cuts. In fact, I have been fighting to restore the value of the personal tax exemption, because I believe we ought to reduce the growing tax burden on families with children. But I do not think a tax cut of what will amount to about 50 cents a day per family is going to do much to spark the kind of investment that is needed to create jobs for families.

I will tell you something that will destroy jobs: increasing income tax rates on sole proprietors, in particular, a driving force in our small business sector. Nine out of 10 businesses pay tax on the individual rather than the corporate tax rate schedule.

This bill, the bill before us, is a tax increase primarily on our small business sector. In fact, 89 percent of the revenue to be generated in the Democratic package comes from higher tax rates that will come from small business income.

Of all the taxpayers hit with a marginal rate increase, 71 percent have income from unincorporated businesses. The bottom line is you cannot create jobs if you destroy the job creators. Small businesses, the engine that drives the majority of job creation in America, will have far less money to pour into new jobs and new investment if the Finance Committee package is enacted.

It is time to put the partisan politics aside and do something constructive to help our economy and create jobs. It is hard to believe the Finance Committee could not find one dollar, one dime, one nickel in spending restraint out of a \$1.4 trillion Federal budget. Instead of raising taxes, we ought to put a lid on deficit spending.

Last fall the chairman of the Finance Committee introduced a responsible tax bill in which he proposed that tax cuts be financed by the peace dividend, savings in defense. The chairman's

original debate focused the debate on where it belonged, on spending restraint, not tax increases.

So today this amendment is an attempt to refocus the debate. We think the Senate ought to get back to the original position: Tax cuts should be financed with spending cuts, not tax increases. Moreover, my amendment does something about the budget deficit by limiting Federal spending growth. Uncontrolled spending has pushed the deficit into the \$400 billion range.

The root cause of today's deficits and debt is too much spending, not too little tax revenues.

Raising taxes will not reduce the budget deficit. Tax increases slow the economy. History shows that for every \$1 the Congress raises in new taxes, it spends \$1.58. We have heard several speeches by Senators on the other side of the aisle about the need to reduce deficit spending. This amendment provides an opportunity to vote for deficit reduction, not just talk about it.

Mr. President, in offering this substitute amendment, I am by no means endorsing all of the different Finance Committee tax provisions. While I support many of the provisions, including the repeal of the boat tax, the health insurance provisions, the pro-family tax cuts, the expansion of IRA's, the first-time homebuyer tax credits, I would go much further in certain areas.

I would like to see a cleaner and more significant cut in the capital gains tax, one that will really get the entrepreneurial economy moving and creating jobs. We ought to cut it to 15 percent for both individuals and corporations with a 1-year holding period and indexed for inflation. Other countries, like Germany and Japan, are gaining ground on us because they tax capital gains much less than we do. Japan is 1 percent; Germany, South Korea, Taiwan, Singapore do not have a capital gains tax at all. How can we compete in world markets when we have the highest capital gains tax in the world?

The capital gains tax provision in the Finance Committee package would make the Tax Code more complex while doing, in my view, very little to help reincentivize the small business sector of our economy.

The President's capital gains tax is also too weak. It includes several provisions which will offset much of the progrowth economic impact. By spurring economic growth and small business starts, a sharp cut in the capital gains tax will actually help reduce the deficit. History shows lower capital gains means more revenue for the Treasury.

In offering this amendment, I want to make the point there are two ways to go. We in the Senate have a choice. We can raise taxes and increase the deficit, as the Finance Committee

package would ask us to do; or we can cut taxes, limit spending, and reduce the deficit, as my amendment would do. We can destroy 233,000 jobs by adopting the Finance Committee's tax increase; or we can create thousands of jobs by adopting this amendment to cut taxes and to cut deficits.

Mr. President, I ask unanimous consent that a list of several hundred organizations from the Tax Reform Action Coalition be printed in the RECORD. These organizations oppose higher tax rates.

In addition, I ask unanimous consent that a letter from the U.S. Chamber of Commerce be printed in the RECORD, as well as a vote notice from the Citizens for a Sound Economy, and letters from the National Association of Wholesaler-Distributors and Family Research Council.

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

CSE KEY VOTE NOTICE—TAX BILL, H.R. 4210

MARCH 6, 1992.

DEAR SENATOR: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I urge you to support the following votes that are expected to take place on the tax bill:

For the McCain Amendment, which requires a supermajority to raise taxes;

For the Kasten Amendment, which substitutes tax increases with spending restraint; and

For final passage if the Kasten Amendment passes, or if the Kasten Amendment fails, Against final passage.

CSE will count these as key votes to be reported to our members in your state. These key votes will be used to determine your eligibility for our Jefferson Award, to be presented at the conclusion of this Congress.

Sincerely yours,

PAUL BECKNER,  
President.

TAX REFORM ACTION COALITION,

Washington, DC, March 6, 1992.

Hon. ROBERT KASTEN, JR.,

Hart Senate Building,  
Washington, DC.

DEAR SENATOR KASTEN: The Tax Reform Action Coalition (TRAC) was a principal advocate of the compact which was the core of the Tax Reform Act of 1986—lower individual and corporate income tax rates in return for fewer preferences.

Since passage of this landmark legislation, dozens of other countries and many state governments have seen the wisdom of lowering marginal rates to encourage growth and competitiveness and to allow the marketplace, rather than the Federal Government, to allocate investment capital.

As we have written you previously, the logic of low Federal income tax rates in lieu of preferences remains compelling. By greatly reducing the impact of tax considerations, low rates provide a climate for sustained economic growth. The legislation adopted by the Senate Finance Committee contains a significant increase in the individual tax rate structure. For that reason, therefore, TRAC must strongly urge you to oppose the bill when it is considered by the full Senate.

Indeed, the most potent economic growth stimulus would be a reduction in corporate and individual rates.

Sincerely,

THE TAX REFORM ACTION COALITION.

- Enclosure: TRAC Membership Roster.  
**TAX REFORM ACTION COALITION (TRAC)**  
 STERING COMMITTEE
- American Business Conference.  
 American Dental Association.  
 American Home Products Corporation.  
 American Insurance Association.  
 Amway Corporation.  
 Apple Computer, Inc.  
 Associated Builders & Contractors.  
 ARCO.  
 BP America, Inc.  
 Beneficial Management Corporation of America.  
 Citizens for a Sound Economy.  
 Computer & Business Equipment Manufacturers Association.  
 Consolidated Freightways Incorporated.  
 The Dial Corporation.  
 Digital Equipment Corporation.  
 Du Pont Company.  
 E-Systems, Inc.  
 Electronic Industries Association.  
 Eli Lilly & Company.  
 Fleming Companies, Inc.  
 Florists' Transworld Delivery Association.  
 Food Marketing Institute.  
 Georgia-Pacific Corporation.  
 W.R. Grace & Company.  
 Grocery Manufacturers of America.  
 Harris Corporation.  
 Household International.  
 I B M Corporation.  
 International Mass Retailing Association.  
 Kellogg Company.  
 The Kroger Company.  
 Levi Strauss & Company.  
 McGraw-Hill, Inc.  
 Merrill Lynch & Company.  
 National-American Wholesale Grocers' Association.  
 National Association of Chain Drug Stores.  
 National Association of Independent Insurers.  
 National Association of Wholesaler-Distributors.  
 National Council of Chain Restaurants.  
 National Federation of Independent Business.  
 National Retail Federation.  
 National Soft Drink Association.  
 NYNEX.  
 PepsiCo, Inc.  
 Pharmaceutical Manufacturers Association.  
 Philip Morris Incorporated.  
 Printing Industries of America.  
 Procter & Gamble Manufacturing Company.  
 The Quaker Oats Company.  
 Ralston Purina Company.  
 RJR Nabisco, Inc.  
 Roadway Services, Inc.  
 Sara Lee Corporation.  
 Springs Industries, Inc.  
 Sun Company, Inc.  
 U.S. Tobacco.  
 United Technologies Corporation.  
 Wine & Spirits Wholesalers of America.  
 Winn-Dixie Stores Incorporated.  
 Xerox Corporation.  
 Yellow Freight System, Inc.
- GENERAL MEMBERSHIP**
- Air Conditioning & Refrigeration Wholesalers.  
 Air Delivery Service Incorporated.  
 Air Transport Association.  
 Air Van North American.  
 Allentown-Lehigh (Pennsylvania) County Chamber of Commerce.  
 Altier & Sons Shoes Incorporated.  
 American Association of Advertising Agencies.  
 American Electronics Association.  
 American Express Company.  
 American Federation of Small Business.  
 American Foundrymen's Society.  
 American Furniture Manufacturers Association.  
 American Institute of Merchant Shipping.  
 American Machine Tool Distributors Association.  
 American Meat Institute.  
 American Movers Conference.  
 American Nurses Association.  
 American Paper Machinery Association.  
 American Pipe Fittings Association.  
 American Supply Association.  
 American Textile Manufacturers Institute.  
 American Traffic Safety Services Association.  
 American Veterinary Distributors Association.  
 American Wholesale Marketers Association.  
 Appliance Parts Distributors Association.  
 Ardmore (Oklahoma) Chamber of Commerce.  
 Arkansas Freightways.  
 Armstrong World Industries, Inc.  
 Associated Equipment Distributors.  
 Association for Suppliers of Printing and Publishing Technologies.  
 Association of American Railroads.  
 Association of Steel Distributors.  
 Atkinson Transfer Incorporated.  
 Automotive Parts Rebuilders Association.  
 Automotive Service Industry Association.  
 Aviation Distributors & Manufacturers Association.  
 B. F. Fields Moving & Storage.  
 Batesville Area (Indiana) Chamber of Commerce.  
 Bearing Specialists Association.  
 Beatrice Companies, Inc.  
 Beauty & Barber Supply Institute.  
 Bechtel Group, Inc.  
 Bicycle Wholesale Distributors Association.  
 Biscuit & Cracker Distributors Association.  
 Campbell Soup Company.  
 Can Manufacturers Institute.  
 Carlton Trucking Company Incorporated.  
 Carolina Freight Corporation.  
 Carr Truck Service Incorporated.  
 Ceramic Tile Distributors Association.  
 Chilton Corporation.  
 CIC Plan.  
 The Clorox Company.  
 Columbia Motor Express Incorporated.  
 Computer Dealers & Lessors Association.  
 Consolidated Papers Incorporated.  
 Contractual Carriers Incorporated.  
 Coors Brewing Company.  
 Copper and Brass Servicenter Association.  
 Coshocton (Ohio) Area Chamber of Commerce.  
 Council for Periodical Distributors Association.  
 Craig Transportation Company.  
 Crawford Fitting Company.  
 Cribler Truck Leasing Incorporated.  
 Crouse Cartage Company.  
 Crowley Maritime Corporation.  
 Cyclops Corporation.  
 D. L. Merchant Transport Incorporated.  
 Dart Trucking Company Incorporated.  
 Dayton Hudson Corporation.  
 DeFazio Express Incorporated.  
 Dobson Mover.  
 Eddie Bauer Incorporated.  
 Edison Electric Institute.  
 Edmac Trucking Company Incorporated.  
 Electrical-Electronics Materials Distributors Association.  
 Elmer Buchta Trucking Incorporated.  
 Engine Service Association.  
 Equifax, Inc.  
 Fairmont Area (Minnesota) Chamber of Commerce.  
 Farm Equipment Wholesalers Association.  
 Federal Express Corporation.  
 Federated Department Stores Incorporated.  
 Federation of American Health Systems.  
 Fire Suppression Systems Association.  
 Fluid Power Distributors Association.  
 FMC Corporation.  
 Food Industries Suppliers Association.  
 Foodservice Equipment Distributors Association.  
 Fort Howard Corporation.  
 Friedl Fuel & Cartage Incorporated.  
 GenCorp.  
 General Delivery Incorporated.  
 General Merchandise Distributors Council.  
 General Mills Incorporated.  
 General Nutrition Incorporated.  
 Grass Valley and Nevada County (California) Chamber of Commerce.  
 Greater East Dallas (Texas) Chamber of Commerce.  
 Greater Rochester (New York) Metro Chamber of Commerce.  
 Greater San Diego (California) Chamber of Commerce.  
 Greater Seattle (Washington) Chamber of Commerce.  
 Greater Syracuse (New York) Chamber of Commerce.  
 Greenfield Transport Incorporated.  
 Griffin Distributing.  
 Hardwood Plywood Manufacturers Association.  
 Hartford Dispatch & Warehouse Company Incorporated.  
 Health Industry Distributors Association.  
 Hewlett-Packard Company.  
 Hobby Industry Association of America.  
 Hospital Corporation of America.  
 Household Goods Forwarders Association of America.  
 Illinois State Chamber of Commerce.  
 Independent Laboratory Distributors Association.  
 Independent Medical Distributors Association.  
 Independent Xray Dealers Association.  
 Industrial Distribution Association.  
 Institute of Industrial Launderers.  
 Institutional and Service Textile Distributors Association.  
 Insulation Contractor Association of America.  
 International Association of Plastics Distributors.  
 International Communications Industries Association.  
 International Sanitary Supply Association.  
 International Snowmobile Industry Association.  
 International Truck Parts Association.  
 Irrigation Association.  
 K mart Corporation.  
 Kelly Services Inc.  
 Kemp Furniture Industries Incorporated.  
 Kent (Washington) Chamber of Commerce.  
 King Transfer Incorporated.  
 King Van & Storage Incorporated.  
 Krenn Truck Lines Incorporated.  
 Lacy's Express Incorporated.  
 Land Trucking Company Incorporated.  
 Larmore Incorporated.  
 Loctite Corporation.  
 Machinery Dealers National Association.  
 Manitowoc-Two Rivers Area (Wisconsin) Chamber of Commerce.  
 Material Handling Equipment Distributors Association.

Materials Research Corporation.  
 Matterson Associates Incorporated.  
 The Maxwell Company.  
 McCourt Cable Systems.  
 McRae's Incorporated.  
 Metal Purchasing.  
 Metro Milwaukee (Wisconsin) Association of Commerce.  
 Metropolitan Life.  
 Mid-West Truckers Association.  
 Minnesota Trucking Association.  
 Mississippi Chemical Corporation.  
 Monroeville Area (Pennsylvania) Chamber of Commerce.  
 Montana Power Company.  
 Moore & Son Trucking.  
 Motorcycle Industry Council.  
 Music Distributors Association.  
 National Aggregates Association.  
 National Appliance Parts Suppliers Association.  
 National Association of Brick Distributors.  
 National Association of Chemical Distributors.  
 National Association of Container Distributors.  
 National Association of Decorative Fabric Distributors.  
 National Association of Electrical Distributors.  
 National Association of Fire Equipment Distributors.  
 National Association of Floor Covering Distributors.  
 National Association of Flour Distributors.  
 National Association of Hose and Accessories Distributors.  
 National Association of Meat Purveyors.  
 National Association of Recording Merchandisers.  
 National Association of the Remodeling Industry.  
 National Association of Retail Druggists.  
 National Association of Service Merchandising.  
 National Association of Sign Supply Distributors.  
 National Association of Solar Contractors.  
 National Association of Sporting Goods Wholesalers.  
 National Association of Truck Stop Operators.  
 National Association of Water Companies.  
 National Association of Wholesale Independent Distributors.  
 National Beer Wholesalers Association.  
 National Building Material Distributors Association.  
 National Business Forms Association.  
 National Commercial Refrigeration Sales Association.  
 National Electrical Manufacturers Association.  
 National Electronic Distributors Association.  
 National Fastener Distributors Association.  
 National Food Brokers Association.  
 National Food Distributors Association.  
 National Frozen Food Association.  
 National Grocers Association.  
 National Independent Poultry and Food Distributors Association.  
 National Industrial Glove Distributors Association.  
 National Lawn & Garden Distributors Association.  
 National Locksmith Suppliers Association.  
 National Marine Distributors Association.  
 National Medical Enterprises.  
 National Moving & Storage.  
 National Paint Distributors.  
 National Paper Trade Association.  
 National Private Truck Council.

National Ready Mixed Concrete Association.  
 National Sash & Door Jobbers Association.  
 National School Supply & Equipment Association.  
 National Screw Machine Products Association.  
 National Solid Wastes Management Association.  
 National Spa & Pool Institute.  
 National Tire Dealers & Retreaders Association.  
 National Tooling & Machining Association.  
 National Transportation Incorporated.  
 National Truck Equipment Association.  
 National Utility Contractors Association.  
 National Venture Capital Association.  
 National Welding Supply Association.  
 National Wheel & Rim Association.  
 National Wholesale Druggists' Association.  
 National Wholesale Furniture Association.  
 National Wholesale Hardware Association.  
 NCR Corporation.  
 New Berlin (Wisconsin) Chamber of Commerce.  
 Newark (Ohio) Area Chamber of Commerce.  
 North American Heating & Airconditioning Wholesalers.  
 North American Horticulture Supply Association.  
 North American Wholesale Lumber Association.  
 Odisco Transportation.  
 Optical Laboratories Association.  
 Opricians Association of America.  
 Oracle Corporation-Government Affairs.  
 Outdoor Power Equipment Distributors Association.  
 PACCAR Incorporated.  
 Pennsylvania House.  
 Pet Industry Distributors Association.  
 Petroleum Equipment Institute.  
 Petroleum Marketers Association of America.  
 Plattsburgh & Clinton County (New York) Chamber of Commerce.  
 Power Transmission Distributors Association.  
 Precision Metalforming Association.  
 Preston Trucking Company.  
 Priority Freight System Incorporated.  
 Produce Marketing Association, Inc.  
 Red Lobster Inns of America.  
 Red Star Truck Lines.  
 Safety Equipment Distributors Association.  
 Safeway Stores Incorporated.  
 Salt Institute.  
 Servicestation and Automotive Repair Association.  
 Shared Medical Systems.  
 Shoe Service Institute of America.  
 Slidell (Louisiana) Chamber of Commerce.  
 Small Business of America Inc.  
 South Hills Movers Incorporated.  
 Specialty Equipment Market Association.  
 Specialty Tools and Fasteners Distributors Association.  
 Square D Company.  
 St. Lucie County (Florida) Economic Development Council.  
 Steel Service Center Institute.  
 Suspension Specialists Association.  
 The Talbots Incorporated.  
 Tarzana (California) Chamber of Commerce.  
 Telecommunications Industry Association.  
 Textile Care Allied Trade Association.  
 Tomahawk Services Incorporated.  
 Unifi Incorporated.  
 United Fresh Fruit & Vegetable Association.  
 United Pesticide Formulators and Distributors Association.

Valmont Industries, Inc.  
 W.H. Fitzgerald Incorporated.  
 Walgreen Company.  
 Wallack Freight Lines Incorporated.  
 Wallcovering Distributors Association.  
 Ward Transport Incorporated.  
 Ward Trucking Incorporated.  
 Warren Trucking Company.  
 Washington Walter Power Company.  
 Water & Sewer Distributors Association.  
 Waukegan/Lake County Chamber of Commerce.  
 Western Suppliers Association.  
 Wheeler Transport Service.  
 Whirlpool Corporation.  
 White Sulphur Springs Chamber of Commerce.  
 Wholesale Florists & Florist Suppliers of America.  
 Wholesale Stationers' Association.  
 The Williams Companies, Inc.  
 Winfield (Illinois) Chamber of Commerce.  
 Woodworking Machinery Distributors Association.  
 Woodworking Machinery Importers Association.  
 Zayre Corporation.

U.S. CHAMBER OF COMMERCE,  
 LEGISLATIVE AND PUBLIC AFFAIRS,  
 Washington, DC, March 10, 1992.

Members of the United States Senate:

On Wednesday, March 11, you will be asked to vote on one of the most important issues facing the 102nd Congress. The economy is stagnant, jobs are being lost, businesses are failing, and Americans are suffering. It is imperative that Congress act quickly to adopt a comprehensive package that will increase economic growth.

The package as approved by the Senate Finance Committee contains a number of positive provisions. However, it also contains almost \$63 billion in new tax increases. Tax cuts in one area that are offset by tax increases in other areas may in the long run do more harm than good to the U.S. economy, still reeling from the major tax increases imposed by the Omnibus Budget Reconciliation Act of 1990. The U.S. Chamber of Commerce strongly urges you to vote against the package as passed by the Senate Finance Committee.

The Chamber specifically opposes proposals to increase individual regular income tax rates, to expand the 45-day interest-free period, and to limit proper business deductions. The Committee-approved legislation couples many temporary economic incentives with permanent tax increases. Adoption of such a plan would actually harm the economy in the long run.

The cost of any economic incentives included in legislation passed by the Senate should be offset with savings from defense and domestic discretionary spending programs. The Chamber strongly urges you to fund the package by dedicating the "peace dividend" to tax relief and by freezing domestic discretionary spending at 1992 levels. Adoption of such a funding measure will ensure that the modestly positive economic effects of the legislation are not negated by tax increases which would further hamper economic growth.

Sincerely,  
 DONALD J. KROES.

NATIONAL ASSOCIATION OF  
 WHOLESALER-DISTRIBUTORS,  
 Washington, DC, March 6, 1992.  
 Hon. ROBERT KASTEN, JR.,  
 U.S. Senate,  
 Washington, DC.  
 DEAR SENATOR: As you prepare to vote on the Senate amendments to H.R. 4210, may we

again state that our message remains firm as it has always been: "Hold the Rates!"

The National Association of Wholesaler-Distributors (NAW), like our comrades-in-arms at NFIB and other trade associations, has a significant number of members which are Subchapter-S corporations. As you know, Subchapter-S corporations pay income taxes at the individual rate levels. If individual income tax rates are raised, therefore, considerable damage will be done to a large and vital segment of our economy. Contrary to popular opinion, raising individual rates does not "stick it to the rich." It "sticks it" instead to those entrepreneurs who are the linchpins of American business in every city and town across this country.

We respectfully urge you to vote against all proposals which increase individual income tax rates.

Thank you.

Sincerely,

DIRK VAN DONGEN,  
President.

ALAN M. KRANOWITZ,  
Senior Vice President—Government Relations.

**OPPOSE THE TAX HIKE ON MOTHERS AT HOME—  
PASS THE KASTEN AMENDMENT**

The tax bill passed by the Senate Finance Committee raises taxes on families that care for their own children by repealing the Supplemental Young Child Tax Credit portion of the EITC. This supplemental tax credit was originally proposed in the 101st Congress by Congressman Charlie Stenholm (D-TX) during the debate over child care legislation. It enjoyed the support of the Bush Administration (indeed, it was modeled after the President's original children's tax credit) and ultimately was part of the child care "compromise" included in the 1990 budget agreement.

The Supplemental Young Child (or "wee tots") Tax Credit provides up to \$376 in tax relief to families with annual incomes below \$22,370 who have children under the age of one. Importantly, taxpayers may elect to claim either this supplemental credit or the Dependent Care Tax Credit (DCTC). This "no double dip" provision is designed to address the tax code's bias against parental care of children during the critical early stages of child development. (The DCTC, which offers up to \$1440 in tax savings for families with children under age 13, is available only to taxpayers who utilize market day care, not to families that care for their own children.)

Thus, the repeal of the Young Child Tax Credit amounts to a tax increase on families that care for their own children—a tax penalty for parental leave-taking during the first year of a child's life.

Proponents of the "wee tots" repeal claim that they are merely seeking to simplify the EITC and increase EITC benefits for working poor families with two or more children. While these are both laudable goals, they can be accomplished without repealing the "wee tots" credit, (indeed, far from proposing repeal of the "wee tots" credit, Senators Charles Grassley (R-IA) and Joseph Lieberman (D-CT) have introduced separate bills to expand the YCTC. Congressman Frank Wolf (R-VA) has introduced similar legislation in the House.)

When the full Senate considers the Finance Committee's tax gill, Senator Bob Kasten (R-WI) will offer an amendment to replace all tax increases—including the repeal of the "wee tots" credit—with spending cuts. This measure deserves support. Families that care

for their own children need per-child tax savings—not a poke in the eye from big spending liberals posturing as friends of middle-class families.

Mr. KASTEN. Parliamentary inquiry, Mr. President. How much time is available to our side?

The PRESIDING OFFICER. The Senator has 12 minutes, 17 seconds.

Mr. KASTEN. I would like to yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the manager of this amendment.

Mr. President, I think now we are on the right track. I am very proud today to state I voted against the 1990 tax agreement, and I do mean tax agreement because it raised taxes \$142 billion. I said then that it would weaken this economy and it would be a disaster, and it was. The people knew it, and I think some of us knew it in this Congress.

While I am not a bragging man, I have a tendency to that every now and again. I still think I was right. Kind of like Dizzy Dean; he said: "It ain't bragging if you done it." Unfortunately, the viewpoints of the minority did not prevail. So here we go again debating this thing. But I think we are on the right track.

In 1990, we said we have to raise taxes to reduce the deficit; we did not have to do that. Here we are in 1992, saying we have to raise taxes to cut taxes. Again, that argument will not fly, either.

I have a quote, something I read out of the Heritage Foundation memorandum, because I think it describes this approach perfectly. It says: The bill before us simply raises taxes on Peter to pay Paul. Unfortunately, one result of taxing Peter in a recession is that he is likely to respond by giving Paul a pink slip. That we do not need.

I know many in this body who will deny the connection of taxing those who can afford to invest and to employ. The current state of our economy cannot stand the pressure. If we cannot accept the fact in theory, then I urge them to look at the facts surrounding the luxury tax that was agreed to in 1990, and the trickle down theory. It sure worked in that case. We put 10 percent on, and right away, there was unemployment in those industries. It just does not make sense to do this all over again.

If this economy is going to come out of its stagnation, it will be small business that does it. They will be the ones who will hire the majority of the people, to put them back to work. Why then all at once do we talk about the luxury tax? We are repealing it in this piece of legislation. The House Ways and Means Committee report accompanying their bill admits the surtax was a mistake. Robbing Peter to pay Paul resulted in Peter handing Paul that dreaded pink slip.

I think that example shows this is a bad bill, and this amendment offered by Mr. KASTEN of Wisconsin addresses some of that.

We could also argue about the specific economic growth provisions in the bill. We could cut the capital gains tax from 23 to 15 percent. Should we offer families a \$300 tax credit per child or a \$500 credit, or will we argue about them during the course of this debate? To me, those changes are marginal compared to the fundamental change in this package, and what it really means: That is, to replace the tax increases with spending restraints, and there are places that we can hold our spending intact. But as we offer in this amendment, we do not have to cut spending; we just freeze it. We just freeze it and look in those areas. It sounds something like the 4 percent that I offered a year ago; that you can allow the budget to grow 4 percent and no more. In 5 years, you would balance the budget and you would start working on the deficit.

We would like to provide tax relief to a lot of people. I do not like taxing working people because, in the first place, here we are trying to return some. And make no doubt about it, we should not have taken it away from them in the first place. The Kasten package that I am cosponsoring freezes domestic and international discretionary spending for fiscal year 1993 levels and uses the President's defense spending over the next 5 years to pay for that economic growth.

Taking this approach, we are giving the American people a waste dividend and a peace dividend.

The PRESIDING OFFICER. The 4 minutes yielded have expired.

Mr. BURNS. I thank the Senator from Wisconsin, and I yield the floor.

Mr. KASTEN. I would like to yield 3 minutes to the Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I thank the Senator for yielding. I rise in strong support of Senator KASTEN's amendment. I want to stress there is not bipartisan support in America for tax increases. The underlying bill contains plenty of them. That is why the Kasten alternative is much more preferable.

Mr. President, I would like to take a moment to discuss the tax bill, not growth, but tax bill, that is before this body now.

I want to start by indicating my support for many of the measures in the bill. The tax bill includes: \$300 tax credit for families with children; 100-percent deduction for health insurance premiums paid by the self-employed; and penalty-free withdrawals from IRA's for first-time homebuyers, medical and educational expenses.

There are many other worthwhile provisions that I support—I will not go

through a laundry list of them \* \* \* but I think the point that needs to be made is that there is bipartisan support for many of the provisions in the legislation.

That being said, I want to stress that there is not bipartisan support for tax increases, and this bill contains plenty of tax increases, permanent tax increases.

As has been stated before in this Chamber, those tax increases are the reason this bill will be vetoed.

This legislation is not about creating jobs. It is about redistributing wealth.

If you believe this is a jobs bill, then you believe that adding a fourth income tax bracket will create jobs.

If you believe this is a jobs bill, then you believe that a 10-percent surtax on millionaires will create jobs.

But the fact of the matter, Mr. President, is that the only jobs created by raising taxes will be at the IRS.

It has been said that we have to pay for the bill. I want to take a moment to address this point, because I think it is important that the American people clearly understand this issue.

You can pay for things in two ways. You can raise taxes, which this bill does, or you can cut spending. Kasten cuts spending pure and simple.

I have a study that was done by the minority staff of the Joint Economic Committee. The study looked at the history of tax increases from 1946 to 1990.

The report definitively concludes that each dollar that we have raised in new taxes resulted in \$1.59 of new Government spending.

Let me repeat that. Over the past 45 years, ever dollar that the Federal Government has raised in taxes has been matched by \$1.59 in new Federal spending. That is why I oppose tax increases.

Tax increases are not the responsible course of action. Tax increases do not reduce the deficit. To the contrary, tax increases result in even greater spending increases. Tax increases increase our national debt, not decrease our national debt.

Mr. President, the American people want three things from Washington. They want legislation that: First, creates jobs; Second, cuts Federal spending; and Third, provides tax relief.

I do not get much mail from constituents asking me to vote to raise taxes—even taxes on the rich.

I do get a great deal of mail from New Hampshire that says we should reduce spending and show some fiscal restraint for a change.

I submit that we can give the American people what they want. We can take these initiatives that have bipartisan support—family tax relief, enhanced IRA's capital gains, investment tax allowance \* \* \*.

And we can pay for these initiatives by reducing Federal spending. Not just

domestic spending but domestic, international, and defense.

The Bentsen tax cuts cost roughly \$67 billion over 5 years.

That may sound like a great deal of money, but let us consider that over that same period of time, the Federal Government will spend more than \$7.6 trillion.

That calculates out to eight-tenths of 1 percent.

We would have to cut spending by eight-tenths of 1 percent over 5 years to pay for the bill before us.

A vote for the Bentsen tax increases is an admission that even the most modest spending cuts are too much. We cannot cut less than one penny for every dollar we spend. That is a pretty pathetic statement.

I think we can do it, and I think this amendment does it well.

First, we can get roughly \$20 billion in savings just by using the President's proposed reductions in defense spending. I am not willing to use the savings to fuel more domestic and international spending, but I am willing to give it back to the American people and to use it to create jobs.

We then need an additional \$47 billion to pay for the proposals. If we freeze domestic and international spending for 5 years, CBO estimates that more than \$62 billion would be saved.

So we could pay for the Bentsen bill, and still have an additional \$15 billion to apply toward the deficit.

It is that simple. Before I start hearing complaints about cutting Social Security or slashing Medicare, I want to be perfectly clear. Those calculations did not even consider entitlements.

We could achieve those savings \* \* \* and still allow normal growth in Medicaid, and Medicare, and Social Security, and all of the other entitlement programs. \* \* \*

I have been a Member of Congress since 1985, and we have not cut spending once. Every now and then, we flirt with the idea of holding down the rate of growth. But in the end, the Congress caves in and we end up on a new spending spree.

At the same time, taxes have been raised nearly every year. The last tax increase \* \* \* the 1990 agreement \* \* \* also claimed to raise taxes on the rich in the name of "tax fairness". \* \* \*

"Luxury taxes" sounded like a wonderful scheme to tax the rich, but ended up destroying jobs.

The President was right. When you aim for the rich, you usually end up hitting the little guy.

We can pay for these proposals with spending cuts \* \* \* last night, we were told that these tax increases only affect the top 1 percent of taxpayers.

Well, we need to cut only eight-tenths of 1 percent of Federal spending over the next 5 years to pay for the tax

cuts. That's what the American people don't hear.

I think the choice is clear. We can raise taxes—and remember, each dollar of those new taxes will result in \$1.59 in new spending—or we can cut spending.

I urge my colleagues to reject higher taxes and support spending restraint.

Mr. KASTEN. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. Five minutes and forty seconds remain.

Mr. KASTEN. Mr. President, I yield 3 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Wisconsin for yielding me this time.

Now we are about to get it right. We have been working on this all week, but finally, here is a proposal to deal with the economy in the way we really should be dealing with it. The Kasten substitute amendment is what I have been waiting for and, I think, what the American people have been waiting for.

Here is what it does. First of all, it says no new taxes. It does not raise taxes. It does leave in place the tax cuts and economic growth incentives, but they are paid for by controlling spending. And there is one other kicker; it even has a \$16 billion net deficit reduction.

Do not raise taxes. Do leave the growth incentives in there. Reduce the deficit and control spending. Now, what more could you ask for?

I want to emphasize, some are going to come in here and say, "My goodness, you are cutting spending; that is going to hurt somebody."

Well, let us look at what is included in this substitute amendment—\$83 billion in budget savings, \$67 billion to pay for revenue losers, and \$16 billion in deficit reduction. How does the amendment propose to do this? By a combination of defense, domestic, and international caps. First, it would take the administration's defense cuts, 1992 through 1996, saving \$19.7 billion. That is how much we should cut—not more. But we should use that money to pay for incentives in the economy to help offset some of the damage that will be done by the defense cuts. Second, the amendment would freeze domestic discretionary spending at the 1992 level. It would not cut it; it would freeze it. I think the American people could live with that. They would say, "OK" just as long as you are not giving it here and there, picking and choosing—a fair, across-the-board freeze at the 1992 level. They can live with that—for a savings of \$58.7 billion. And, third, the amendment would freeze international spending at the 1992 level of \$20.1 billion, for a savings of \$4.4 billion.

Let me tell you, if you took a poll out in the country, the people would say "freeze spending." And that is not

enough; they would say "cut it." But, at least, let us put some sort of cap on it.

I think we are finally heading in the right direction. The bill out of the Finance Committee, we all have to acknowledge—I know the distinguished chairman of the committee probably would love to have done it but he has to get the votes, and he has to work with what he has. But this bill raises taxes, and it raises spending. It does provide some temporary tax relief, but it implements permanent tax increases to pay for limited, temporary relief. It is claimed that their bill raises the top rate from 31 to 36 percent for individuals. In reality, the top individual tax rate is more than that. As I understand it, it is between 40 and 41 percent because of the limitation on itemized deductions and the so-called millionaires' surtax.

I urge my colleagues to take a look at this amendment. This is the way to go. Vote for the Kasten substitute amendment. I thank the Chair.

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

Who yields time?

Mr. BENTSEN. Mr. President, I keep hearing from some of my colleagues about how the underlying bill raises taxes. I never hear them refer to the fact it also lowers taxes. One of the points I made in the drafting of the legislation was that we match increases with a lowering of taxes. That is the same approach adopted by President Reagan in 1986. He brought down a lot of taxes and he raised some taxes. I can recall that in 1986 they were talking, at least initially, about a tax of some 35 percent on all people making over \$70,000 a year. Under our bill, most of those people would be paying a 28 percent tax. We are only talking about increasing the tax by 5 percentage points on families making \$175,000 or more a year.

Let us examine what this amendment does. What Senator KASTEN is proposing is diverting some \$19 billion of the proposed peace dividend over the next 5 years to fund tax cuts. That peace dividend is a once-in-a-lifetime opportunity to redirect national priorities, whether we are talking about paying off more of the deficit, trying to rebuild our infrastructure or take care of some of those needs that have been severely neglected in the way of education and research and development.

You are quite right that when I started out on this bill, I wanted to pay for it with the peace dividend. It seemed like the easy way to do it. And then Bob Reischauer, from CBO, came in and testified that we would need \$133 billion just to maintain real domestic discretionary spending at 1992 levels. That is when I decided that we had to focus on tax revenues as the only viable alternative. I believe the sponsors of this amendment ignore that kind of a warning.

So the Kasten amendment is proposed to cap domestic discretionary spending in nominal dollars at about current levels. The Senator says he expects to save some \$58 billion over the next 5 years, which translates into a real cut of about 20 percent in domestic discretionary programs.

I tell you, Mr. President, that will cut like a hot knife through critical national programs.

Let me give you some examples of where those cuts could well occur under this amendment as rising costs would force real cuts due to spending caps:

A \$4 billion cut in Federal education assistance at the same time that virtually every expert is calling for higher education spending to meet world competition. Looking to the future, it is not a military confrontation we are expecting but instead heightened economic competition. A educated work force in this country is absolutely critical, essential to meet this challenge. With those kinds of cuts, the President's Education 2000 initiative would be doomed to failure.

A reduction of 20 percent in unemployment compensation program management funds.

A cut of up to \$1 billion, or 20 percent, in funds used to administer and manage the Social Security and Medicaid programs. Such massive cuts could well require the firing of administrative personnel who field Medicare inquiries, those who man the computers writing benefit checks, who monitor spending by medical providers, and so on. Most assuredly, it would mean slower and less accurate Social Security and Medicare benefits.

A cut of \$400 million in consumer and occupational health and safety spending. The Food and Drug Administration would not escape the cuts, with the result that efforts to speed up the drug approval process could fail.

A cut of \$2.5 billion in health research by the National Institutes of Health and the Center for Disease Control. This would deliver a body blow to progress in conquering AIDS, cancer, and heart diseases.

A \$4 billion, or 20 percent, cut in transportation programs, including nearly \$2 billion from the FAA. This would kill airport expansion, and efforts to improve the air traffic control system, which are very much needed. This cut would eliminate many of the jobs created last fall by the Surface Transportation Act. This amendment would also cut rapid transit operating subsidies and construction spending by one-quarter.

A 20-percent cut in general science and basic research. Cutting the National Science Foundation's budget by 20 percent is not the way I would go in preparing America to meet the economic challenge of the 21st century.

A \$4 billion cut in Justice Department programs. This would impede

prison construction, hobble drug programs, dramatically slow drug interdiction efforts, result in the early release of many Federal prisoners, and cut the FBI budget by 20 percent. There would be champagne corks popping all through the Colombian drug cartels if we did that one.

Many veterans' programs would continue, but VA, hospital operating funds, other administrative outlays, have been cut by 20 percent, resulting in a serious deterioration of health care available to veterans. Should our veterans face delays in surgery, perhaps even the closing of some hospitals?

We ought to face up to the consequences of this amendment. We ought to pay for the tax relief in this bill with tax increases. The Finance Committee has financed this underlying bill by increasing the tax rates on taxpayers in the top seven-tenths of 1 percent of all income earners. That is a fair and a fiscally responsible way to pay to put some fairness back in the tax system.

What do you think the differential in the tax rates is in this country between a person making \$35,000 a year and a person making \$1 million a year? What is the differential between the rates applicable to these two types of taxpayers? How progressive is the tax system in this country? Well, today there is a 3-percentage point differential, 3 percentage points. No other country I know of in the world has such a minimal differential.

When we talk about raising the rate applicable to those making over \$175,000 a year, we are actually talking about \$175,000 after all the tax deductions are taken into account. That means that the taxpayers subject to the higher rate are earning something substantially above that. The rate would be increased 5 percentage points, to 36 percent. Even with the millionaires' surtax, which causes income in excess of \$1 million to be taxed at up around 39 percent, our rates are still substantially below our major economic competitors. For example, Japan has a top rate of 50 percent, and the West Germans have a 53-percent top rate.

The best way and the fair way to proceed is to support the underlying bill and defeat this amendment.

If we are going to provide tax relief, let us pay for it in a manner that will not tie our hands and prevent us from addressing some of our very important domestic problems.

This amendment, of course, is subject to a point of order. It would violate the budget agreement. I certainly cannot let that happen. I was a party to that 1990 budget agreement. It was tough. I hope I never have to enter into another one. But it is the only discipline we have now around this place, and it is important that we observe it. I intend

to keep this tax bill and any amendments to it from breaking that budget agreement. Therefore, I will raise that point of order at the appropriate time.

In the meantime, I urge my colleagues to vote against this amendment.

How much time do I have?

The PRESIDING OFFICER. The Senator from Wisconsin has 2½ minutes; the Senator from Texas has 10½ minutes.

Mr. BENTSEN. I withhold the remainder of my time.

Mr. KASTEN. Mr. President, I yield 1 minute to the Senator from Idaho [Mr. CRAIG.]

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to rise in support of this amendment by my colleague from Wisconsin, because it is the only game in town if we are to restore vitality to this economy. We cannot raise taxes and at the same time continue to increase in an ever-expanding Federal budget, with the kind of debt overhang that we have created as a result of Federal spending today.

Most economists agree that even with the kind of tax cuts that are proposed in the underlying bill we cannot move this economy beyond a 1- to 1½-percent growth rate a year. Let me suggest that if we cannot accomplish something better than that, then the average working men and women of this country will not be able to produce the way they want to, to own the home they would like to own, to save the amount of money they would like to save to put their children into school, to have the kind of economic opportunity they want for their future.

I stand in support of this amendment, and I ask unanimous consent to revise and extend.

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

Who yields time?

Mr. BENTSEN. Is there any time left for the other side? I am prepared to yield the time.

The PRESIDING OFFICER. The Senator from Wisconsin has 1½ minutes.

Mr. KASTEN. Let me summarize. This amendment simply freezes spending. It does not reduce spending. The Senator from Texas has referred to cuts. I think most people at least outside the beltway understand that if you spend \$236.3 billion this year and you freeze it to \$236.3 billion next year, that that is not a cut. It is a freeze.

Yes, there are a number of programs that, within that overall freeze or within these caps, might go up and some of them might do down.

A number of the programs that the Senator referred to are programs that would probably go up under a cap. But this is not a cut. It is a freeze.

I am aware that a point of order will be raised. Frankly, I think the Amer-

ican people are tired of delay, they are tired of points of order, they are tired of all of the political ping pong that has been going on here. The fact is this amendment completely pays for the tax cuts in this package, and provides an additional \$15 billion in net deficit reduction.

I urge adoption of this amendment.

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

Mr. BENTSEN. Mr. President, the realities are that when you freeze spending in nominal dollars and inflation takes place over the next 5 years, you will have a cut in real dollars. That is what I was talking about. This amendment, Mr. President, is not revenue neutral.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded.

The question is on agreeing to the amendment.

Mr. BENTSEN. Mr. President, this amendment is not revenue neutral, and I raise a point of order that the amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I move to waive the relevant section of the Budget Act as it relates to the consideration of the Kasten amendment.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Wisconsin to waive the Budget Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—36

Bond	Gramm	Nickles
Brown	Grassley	Pressler
Burns	Hatch	Roth
Chafee	Helms	Seymour
Coats	Kassebaum	Shelby
Cochran	Kasten	Simpson
Craig	Lott	Smith
D'Amato	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Gale	McConnell	Wallop
Garn	Murkowski	Warner
Gorton		

NAYS—61

Adams	Durenberger	Metzenbaum
Akaka	Exon	Mitchell
Baucus	Ford	Moynihan
Bentsen	Fowler	Nunn
Biden	Glenn	Packwood
Bingaman	Gore	Pell
Boren	Graham	Pryor
Bradley	Hatfield	Reid
Breaux	Heflin	Robb
Bryan	Hollings	Rockefeller
Bumpers	Inouye	Rudman
Burdick	Jeffords	Sanford
Byrd	Johnston	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Simon
Cranston	Kerry	Specter
Daschle	Kohl	Wellstone
DeConcini	Lautenberg	Wirth
Dixon	Leahy	Wofford
Dodd	Levin	
Domenici	Lieberman	

NOT VOTING—3

Harkin	Mikulski	Riegle
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The PRESIDING OFFICER. On this vote there are 36 yeas and 61 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Wisconsin would cause revenues to be less than the appropriate level of total revenues set forth in the budget resolution for the fiscal years 1992 to 1996.

The point of order is sustained. The amendment falls.

The Senator from Wisconsin.

AMENDMENT NO. 1729

(Purpose: To amend the Internal Revenue Code of 1986 to provide for rollover of gain from sale of farm assets into an individual retirement account)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. SHELBY, Mr. KOHL, Mr. BURNS, and Mr. LOTT, proposes an amendment numbered 1729.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert:

**SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.**

(a) SHORT TITLE.—This Act may be cited as the Family Farm Tax Relief and Savings Act of 1991.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—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 a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.**

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

**"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.**

"(a) **NONRECOGNITION OF GAIN.**—If a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions which—

"(1) are to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs, and

"(2) are not in excess of the limits under subsection (c).

"(b) **ASSET ROLLOVER ACCOUNT.**—

"(1) **GENERAL RULE.**—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) **ASSET ROLLOVER ACCOUNT.**—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset or rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) **CONTRIBUTION RULES.**—

"(1) **NO DEDUCTION ALLOWED.**—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) **AGGREGATE CONTRIBUTION LIMITATION.**—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual during a qualified period shall not exceed—

"(A) \$500,000 (\$250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds \$100,000.

"(3) **ANNUAL CONTRIBUTION LIMITATIONS.**—

"(A) **GENERAL RULE.**—The qualified contribution which may be made in any taxable year shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by \$10,000.

"(B) **SPOUSE.**—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '\$20,000' for '\$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) **TIME WHEN CONTRIBUTION DEEMED MADE.**—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) **QUALIFIED NET FARM GAIN; ETC.**—For purposes of this section—

"(1) **QUALIFIED NET FARM GAIN.**—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) **QUALIFIED FARM ASSET.**—The term 'qualified farm asset' means an asset used by

a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) **QUALIFIED FARMER.**—

"(A) **IN GENERAL.**—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) 50 percent or more of such trade or business is owned by the taxpayer (or his spouse) during such 5-year period.

"(B) **MATERIAL PARTICIPATION.**—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if he meets the requirements of section 2032A(e)(6).

"(4) **ROLLOVER CONTRIBUTIONS.**—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) **DISTRIBUTION RULES.**—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) **INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.**—

"(1) **IN GENERAL.**—Any individual who—

"(A) makes a qualified contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year, shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) **INFORMATION REQUIRED TO BE SUPPLIED.**—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) **PENALTIES.**—For penalties relating to reports under paragraph, see section 6693(b).

"(b) **CONTRIBUTIONS NOT DEDUCTIBLE.**—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) **CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.**—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

"(c) **EXCESS CONTRIBUTIONS.**—

"(1) **IN GENERAL.**—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) **ASSET ROLLOVER ACCOUNTS.**—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

"(2) **CONFORMING AMENDMENTS.**—

"(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or"

"(B) The heading for section 4973 of such Code is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS".

"(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

"(d) **TECHNICAL AMENDMENTS.**—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)" in subparagraph (A).

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales and exchanges after the date of enactment of this Act.

**SEC. 3. REVENUE PROVISIONS.**

(a) **ONE-YEAR EXTENSION OF CUSTOMS USER FEES.**—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

(b) **ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.**—Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

(c) **REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.**—

(i) **REVISION.**—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)".

(ii) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1991.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the managers of the bill have agreed with the distinguished Senator from Wisconsin that we have 20 minutes on his amendment, equally divided, with no amendments thereto. I so ask unanimous consent.

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

The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise today on behalf of myself and Senators SHELBY, KOHL, BURNS, and LOTT to offer the Family Farm Tax Relief and Savings Act as an amendment to the tax bill. This amendment would provide tax relief and a retirement savings program for families actively engaged in the business of farming.

Specifically, farmers would be permitted to roll over the proceeds from the sale of farm assets into an individual retirement account and thereby defer tax on those assets until the farmer or spouse begins withdrawing funds from the IRA after retirement.

Today, the tax code is particularly unkind to farmers. A Wisconsin dairy farmer, for example, who works his whole life on the farm and then sells

part, or all of it, in order to retire, is subject to immediate taxation of his full profit at ordinary income tax rates. The Federal Government immediately taxes 28 percent of a lifetime's accumulated gain, and the State takes another chunk. The farmer is then left to retire on what remains.

There is no consideration for the fact that much of the farmer's profit is due solely to inflation, or that farmer's do not have access to company or government pension and retirement plans and therefore often rely on the farm sale proceeds to provide a comfortable retirement.

The Tax Code provides absolutely no protection from taxation on phantom inflation gains. This is perhaps the most objectionable aspect of our Tax Code's present treatment of capital gains.

Retirement can be particularly difficult for many farmers since they often receive less Social Security than workers in other fields. This is because farmer's need to plow much of the farm income back into the farm.

Consequently, many farmer's pay themselves low salaries and as a result receive lower Social Security benefits. This is despite the fact that as self-employed workers farmers actually pay payroll taxes of 15.3 percent rather than the 7.65 percent that employees of companies pay.

All of this adds up to high taxes, and an often difficult retirement for farmers who have spent their lives feeding America's families.

I believe farmers deserve better. My bill provides that farmers who sell farm assets would be permitted to defer capital gains taxation on the profit from those assets by rolling the profit into an individual retirement account. This not only defers the tax, but also allows the farmer and spouse to spread the eventual payment of tax out over a number of years as they gradually withdraw funds from the IRA.

Mr. President, I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 4 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New Jersey is recognized for 4 minutes.

Mr. BRADLEY. Mr. President, this amendment is ill-considered. As I understand the Senator's amendment, what it would do is allow someone who sells a farm to put up to \$500,000 in an IRA account.

What possible basis could we have in any policy to allow a farmer to take \$500,000 and put it in an IRA account? Aside from that point, there could be questions of equity involved in this. Why should we favor the farmer over the small businessman?

Let us say that you run a hardware store on Main Street. You sell the hardware store and you get some

money, and under this amendment, you cannot put it into an IRA account. But if you are a farmer and you sell your farm, you can put it in an IRA account that allows it to earn interest tax free.

Now, I know that the Senator's intent is to try to provide some help to small farmers. But I urge him not to provide relief to small farmers to the exclusion of small business people; to the exclusion of other professionals. And I hope that we will be able to reject this amendment. I mean, up to \$500,000 put in a tax-free savings account? I think, Mr. President, that this is the wrong direction to go on equity grounds and on fairness grounds with relation to other business people.

I urge this amendment be rejected. The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PELL. Mr. President, I rise in opposition to the amendment offered by the Senator from Wisconsin [Mr. KASTEN].

I do not fault the thrust of his amendment, but I do oppose the way in which he would seek to finance it. Part of the financing would come from removal of the statute of limitations on the collection of defaulted student loans.

The problem is that the Senate has already acted to remove the statute of limitations. When we passed S. 1150, the higher education reauthorization bill, we approved as a part of that legislation the removal of the statute of limitations. That provision was an integral and important part of our reauthorization bill. It produced savings that allowed us to live within the budget agreement, and to make important changes in student aid, changes such as the removal of home and farm equity in the determination of financial need for families with incomes of less than \$50,000 a year.

The savings in question are by no means minimal. In the first year they would amount to \$235 million, and would total another \$250 million over the 4 remaining years of the bill.

If the Kasten amendment were adopted and were to become law before reauthorization of the Higher Education Act, we would lose those savings. This would leave us with a bill in violation of the budget agreement, and we could well be faced with having to eliminate some of the very favorable steps we have taken to help families finance a college education for their children.

I urge my colleagues to join me in opposing the Kasten amendment.

I yield the floor.

Mr. BENTSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, just to add to what Senator PELL has stated, under the existing student loan statute of limitations, it is 10 years. We have extended it in the higher education to make it indefinite. Over a 5-year period, the revenues are \$500 million.

We have taken that \$500 million in the Higher Education Act and used it in the Guaranteed Student Loan Program to extend student loan programs for middle-income families. That is an additional source of revenue to be used by middle-income families to send their sons and daughters on to higher education.

The Senator takes that money, which we have already allocated—we do not have trouble with the extension of the statute of limitations, because we have already supported it—but it takes that money out from being available to the sons and daughters of working families in this country—farmers' and workers' families—and effectively puts it over in another pot, as the Senator from New Jersey has mentioned, to individuals that sell their farms for \$500,000 and put it in an IRA.

This is an equity issue and an educational issue. It is education because we are talking about accessibility and availability of higher education. It is an equity issue because we are taking money that would be available to the sons and daughters of working families and giving it to some of the wealthiest individuals in this country.

So for both those reasons, I hope that this amendment would be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN addressed the Chair. The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Parliamentary inquiry. How much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes 37 seconds.

The Senator from Texas has 4 minutes 22 seconds.

Mr. KASTEN. Mr. President, my proposal has the support of the American Farm Bureau Federation, the Wisconsin Farm Bureau, and Communicating for Agriculture. The rollover of farm assets has been endorsed by the Corn Growers Association, the Soybean Growers, and the National and Regional Associated Milk Producers. I am proud to work with these groups in order to reduce the punishing tax burden placed on farmers when they sell assets.

I would, as the Senator from New Jersey suggested, consider providing this for different people who find themselves putting all their financial eggs in one basket, if you will. Farmers are unique in this way. They are forced to have all their financial eggs in this one

basket, and then to pay the punishing capital gains tax.

We have offset the \$837 million 5-year cost of this amendment, estimated by Joint Tax Committee which means that the amendment is revenue neutral.

I ask unanimous consent that a letter from the American Farm Bureau Federation supporting my amendment be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. KASTEN. Mr. President, I would like to note that five Senators have in fact cosponsored this legislation, and nearly 50 Members of the House of Representatives have sponsored this.

Mr. President, it is an important issue. This is a vote for retirement security for a number of people who are involved in agriculture, and I urge the Senate to adopt my amendment.

#### EXHIBIT 1

AMERICAN FARM BUREAU FEDERATION,  
Park Ridge, IL, March 11, 1992.

The Hon. BOB KASTEN,  
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: The American Farm Bureau Federation supports your efforts to offer the "Farmer Individual Retirement Account" to the tax bill H.R. 4210. Many farmers have not been able to set aside retirement funds in a retirement plan like an IRA or Keogh plan, so the ability of a farmer to sell the property, tax deferred, to finance his or her retirement is an important retirement planning tool.

We understand that your amendment would permit a farmer to roll over the proceeds from the sale of capital assets into an individual retirement account. Tax on the proceeds would be deferred until the farmer begins to withdraw the funds from the IRA.

We are pleased to endorse the "Farmer IRA," and urge the Senate to vote for your amendment.

Sincerely,

JOHN C. DATT,  
Executive Director,  
Washington Office.

#### KASTEN FAMILY FARMS IRA AMENDMENT

Mr. BAUCUS. Mr. President, my remarks will be very brief. I am very sympathetic to the concerns that my colleague from Wisconsin has expressed. Those of us from farm States know that life on a farm or ranch is different from life in the city or suburbs in many ways.

One of those differences is that people save for their retirement more through building up their farm or small business than through payroll withholding. Their retirement nest egg consists of the value of that small business, or farm, or ranch. This is their IRA. And I think the Tax Code should recognize this fact.

In fact, I have been working with the Joint Tax Committee and the chairman to craft a proposal that would

treat the sale of a farm like we already treat the sale of a principal residence. Namely, allow a one-time exemption from capital gains. And I expressed my support for that proposition yesterday. Unfortunately, the measure that my colleague from Wisconsin proposes today in its current form violates the Budget Act. I therefore cannot at this time support the amendment, even though I agree with its objective.

But despite my vote on this amendment, I intend to keep working to draft a provision that provides this needed relief to farmers and ranchers, while at the same time conforming to our budget rules.

Mr. BENTSEN. Is the proponent of the legislation willing to yield back his time?

Mr. KASTEN. Mr. President, I yield back the remaining time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this amendment is not budget neutral, it is not revenue neutral, and I raise the point of order that this amendment violates section 311(a) of the Congressional Budget Act of 1984.

The PRESIDING OFFICER. A point of order has been raised.

The Senator from Wisconsin.

Mr. KASTEN. Mr. President, will the Senator yield for 30 seconds? I ask unanimous consent I regain 30 seconds of my time. I want to ask the Senator a question.

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

Mr. BENTSEN. I have no objection.

Mr. KASTEN. Mr. President, we carefully worked his amendment in terms of the offsets: Joint Tax estimated \$537 million. That was the 5-year cost of the amendment. With the various things that we included, we have covered these questions. I think there should be no question about that.

Mr. BENTSEN. What we are running into you are paying for revenues losses with spending cuts, and that is not allowed under the budget rules.

Mr. KASTEN. Mr. President, I move the relevant sections of the Budget Act be waived for purposes of consideration of the Kasten amendment.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 311 of the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 45 nays 53, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—45

Bond	Garn	Murkowski
Boren	Gorton	Nickles
Brown	Gramm	Pressler
Burdick	Grassley	Roth
Burns	Hatch	Seymour
Coats	Heflin	Shelby
Cochran	Helms	Simpson
Conrad	Kasten	Smith
Craig	Kerrey	Specter
D'Amato	Kohl	Stevens
Danforth	Leahy	Symms
Daschle	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Exon	McConnell	Wellstone

NAYS—53

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Gore	Nunn
Biden	Graham	Packwood
Bingaman	Hatfield	Pell
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Byrd	Kassebaum	Rudman
Chafee	Kennedy	Sanford
Cohen	Kerry	Sarbanes
Cranston	Lautenberg	Sasser
DeConcini	Levin	Simon
Dixon	Lieberman	Wirth
Dodd	McCain	Wofford
Durenberger	Metzenbaum	

NOT VOTING—2

Harkin Riegle

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Wisconsin would cause revenues to be less than the appropriate level of total revenues set forth in the budget resolution for fiscal years 1992 through 1996, notwithstanding the fact that outlays are likewise reduced. Accordingly, the point of order is sustained and the amendment falls.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will be fairly brief. I had planned to offer an amendment to this bill to create incentives for businesses to hire the long-term unemployed. In deference to the chairman of the Finance Committee and colleagues, I am not going to offer this amendment, but I just wanted to take a few moments to discuss this proposal. I had a private discussion with the chairman of the Finance Committee. I testified on this in front of the Finance Committee, and I have assurance from the chairman of the committee, the manager, that he will examine closely this matter on a stand-alone bill.

Mr. President, over 1.7 million Americans have been jobless for more than 6

months. These Americans face enormous emotional and financial pressures, pressures with real consequences. They range from increases in family and medical problems, criminal behavior, even suicide. Compounding matters, the long-term unemployed face a catch-22. The longer they are out of work, the less attractive they become to prospective employers. It is a vicious cycle. It is very hard to escape.

Mr. President, we are looking at the long-term unemployed need of a helping hand to break out of that cycle. And that is what my proposal would have provided.

The concept is very simple. And it builds on a well-established, existing program, the targeted jobs tax credit, or TJTC.

Under current law, the TJTC is available to employers who hire from among nine targeted groups. These include economically disadvantaged youth, Vietnam-era veterans, ex-convicts, vocational rehabilitation participants, and AFDC recipients. The credit generally is calculated by taking 40 percent of the first \$6,000 of qualifying first-year wages.

My proposal is to include the long-term unemployed as a new targeted group.

Under the proposal, employers who hire people who have been receiving unemployment compensation for at least 6 months would get the same benefits as those who hire ex-convicts or welfare recipients.

Mr. President, encouraging employment of the long-term unemployed is a matter of basic compassion. But it is also good economic and social policy.

The long-term unemployed represent what might be considered as wasted human capital—resources that should be contributing to economic growth, but are not. Putting these people back to work, and increasing their spending power, would help stimulate the economy to the benefit of all Americans.

Moreover, the long-term unemployed impose real costs on working Americans. When the unemployed stop paying taxes, those in the work force must make up the difference. And as joblessness increases, working Americans also bear burdens in paying for AFDC, food stamps, and other social support programs.

Of course, beyond humanitarian concerns, and any economic benefits, reducing long-term unemployment should reduce the many social problems associated with long-term joblessness. As I suggested earlier, these range from increased demands on medical institutions, to spousal and child abuse, and other violent crimes.

Mr. President, I will not suggest that this proposal is the cure-all to the problem of long-term unemployment. However, it does have significant advantages.

First, it can produce results quickly. It is simple. It is based on an established program. And it does not require a lot of planning or new regulations.

Second, the provision would not require the creation of an enlarged government bureaucracy. That means greater efficiency and lower costs to taxpayers.

Third, the provision is well targeted. It helps those who have tried to help themselves. By limiting the legislation to those who have been receiving unemployment compensation, we ensure that those assisted are persons who were laid off against their will, and have been actively seeking employment.

Fourth, the provision proposes to reduce long-term unemployment directly. As the debate on taxes has developed, we have heard a wide range of proposals that would encourage people to do various things, and that would give special breaks to a variety of groups. Proponents typically argue that each break will indirectly trigger a chain of events that eventually results in reduced unemployment. In many cases, that may be true. But if we really want to reduce unemployment, why not address the problem head on? The more direct our approach, the more confident we can be that it will work, and work quickly.

Finally, I am hopeful that this proposal can win broad support from members on both sides of the aisle. The TJTC is supported by President Bush, and a bipartisan group of 53 Senators has cosponsored legislation to make the credit permanent.

Mr. President, I know the distinguished chairman of the Finance Committee gave this proposal serious consideration when this bill was being developed, and I want to thank him for that. While it was not included in the committee's bill, I hope the chairman will keep this in mind in the future. The needs of the long-term unemployed are very real, and, in my view, should be addressed directly.

I once again express my thanks and appreciation to the chairman of the Finance Committee, the manager of the bill, and look forward to having an opportunity for further review of this bill at a later date.

I yield the floor.

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 1730

(Purpose: Expressing the sense of the Senate supporting production tax credits and investment tax credits for renewable energy technologies)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. FOWLER, Mr. PACKWOOD, Mr.

BURNS, Mr. GORE, Mr. WELLSTONE, Mr. BRYAN, Mr. SIMON, Mr. WIRTH, Mr. AKAKA, Mr. KERRY, Mr. JEFFORDS, Mr. KERREY, Mr. LEAHY, Mr. HATFIELD, Mr. HARKIN, Mr. CONRAD, Mr. BROWN, Mr. KENNEDY, Mr. MCCAIN, Mr. CRANSTON, Mr. DASCHLE, Mr. INOUE, Mr. LIEBERMAN, Mr. SANFORD, and Mr. ADAMS, proposes an amendment numbered 1730.

Mr. GRASSLEY. 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 in the bill insert:  
**SEC. . SENSE OF SENATE SUPPORTING TAX INCENTIVES FOR RENEWABLE ENERGY TECHNOLOGIES**

(a) FINDINGS.—The Senate finds that—

(1) the use of America's most plentiful energy resources such as wind, solar, geothermal and biomass energy represents one of the most effective means of reducing our reliance on imported energy, increasing our international competitiveness, and creating stable employment for our workforce,

(2) these renewable energy sources currently contribute thousands of megawatts of electricity to our nation's energy supply,

(3) the increased use of renewable energy will displace polluting fossil fuels, thus reducing harmful air pollution and the emission of gases which contribute to environmental deterioration, and

(4) comprehensive tax incentives are needed to enhance our nation's renewable energy technologies.

(b) SENSE OF SENATE.—It is the sense of the Senate that our national energy tax policy include a production tax credit for renewable energy in conjunction with a permanent business energy tax credit.

Mr. GRASSLEY. Mr. President, along with a number of my colleagues, including Senators FOWLER, PACKWOOD, BURNS, GORE, WELLSTONE, BRYAN, SIMON, WIRTH, AKAKA, KERRY, JEFFORDS, KERREY, LEAHY, HATFIELD, HARKIN, CONRAD, BROWN, KENNEDY, MCCAIN, CRANSTON, DASCHLE, INOUE, LIEBERMAN, SANFORD, and ADAMS, I am offering a sense-of-the-Senate amendment addressing a significant gap in our current energy strategy.

This void concerns the lack of stronger incentives in the strategy for our Nation to dramatically increase the production of renewable fuels. Any successful national energy and environmental policy must seriously move in the direction of shifting our reliance away from finite supplies of fossil fuels toward the infinite supply of alternative energy fuels.

The amendment we are offering today would express the necessity of providing a production tax credit for electricity created through renewable fuel technologies in conjunction with the current investment tax credit.

These technologies include solar, wind, photovoltaic, biomass and geothermal. Alternative energies are keys toward a cleaner and safer environment and a virtually unlimited supply of energy. Assisting these technologies will also help create thousands of jobs and strengthen our economy.

In the past, the Energy Department has recognized the need for these tax incentives for renewable fuels.

The war in the gulf only highlighted the dangerous reliance we have placed on oil—especially foreign oil—to fuel our Nation. Everyone seems to recognize that we need to lessen our dependence on oil. However, up to now, too much emphasis has been placed on further oil production.

In the 1990 budget reconciliation bill, a number of tax incentives for the oil industry amounting to billions of dollars was passed into law. In the bill before us, even more incentives for oil have been included.

I do not generally disagree with helping our domestic oil industry. However, our oil reserves are finite. So, we have got to be looking further ahead than just to the next generation, or we're going to fail. If we can provide a few billion dollars in tax incentives to the oil industry, then we can be more forward looking and provide commensurate assistance to the energies of the future.

In considering the Senate energy strategy bill, both the chairman and ranking member of the Energy Committee, Senators JOHNSTON and WALLOP, recognized the need for tax incentives for alternative energies. It is time the Congress provided comprehensive tax incentives for our fledgling renewable energy industry.

Outside organizations that support this effort include the Sierra Club, the Wind Energy Association, the Natural Resources Defense Council, U.S. PIRG, Friends of the Earth, Union of Concerned Scientists, National Wildlife Federation, Environmental Defense Fund, the National Audubon Society, the Consumer Federation of America, Solar Energy Industries Association, and many more.

As the sponsor of S. 466, which creates renewable energy production credits and extends the investment tax credits, I look forward to working with the Finance Committee as I and the co-sponsors of the bill and this amendment forge ahead.

I understand this amendment is acceptable on both sides.

The PRESIDING OFFICER. Is there further debate on the pending amendment?

If not, the question is on agreeing to the amendment—

Mr. BENTSEN. We have no objection.

Mr. PACKWOOD. I agree.

The PRESIDING OFFICER. Without objection, the amendment (No. 1730) is agreed to.

Mr. FORD. Mr. President, I come to the floor today to make it clear that I fully support efforts to protect the health benefits of retired coal miners and their families, and will work tirelessly to ensure that benefits are not interrupted.

But I must tell my colleagues that I come here today with a heavy heart. I

am troubled by the prospect of a nationwide strike in our coal fields, and the possibility that over 15,000 Kentuckians may lose health-care benefits if we do not act. And yet I know that the answer contained in this bill is not in the best interest of my State and cannot be enacted into law.

The Finance Committee bill before us is a good bill. On balance, it is a progressive answer to providing both economic stimulus and tax fairness that this country so desperately needs—with the exception of one provision. That is the addition of an almost industrywide tax on coal to secure the health benefits of retired coal miners.

I have not attempted to derail this proposal. I have been working day and night to find an equitable solution to this problem that can be signed into law. But it is obvious to me, and I suspect to all parties involved, that we cannot find a solution to this today.

Let me be perfectly clear: As long as I can stand on this floor, I will fight for legislation to protect the health benefits of the over 15,000 retired miners and their families in my State. It would be morally wrong to turn our backs on their needs, and those of over 100,000 more just like them across this Nation.

But let me be just as clear: I cannot support efforts to protect these retirees' benefits at the expense of their children's and grandchildren's jobs in the Kentucky coal fields. And that is the exact result of this bill.

No one doubts that we are facing a crisis in the coal fields. The two benefit funds that are currently paying for the health benefits of these retirees have a combined deficit of over \$100 million, growing to over \$200 million by the end of the contract next year.

There are over 70,000 retirees for whom there is no contributing employer. The health benefits for these so-called orphan retirees are being borne exclusively by the remaining signatories to the Bituminous Coal Operators Association Agreement. At a current cost of \$2,000 per beneficiary per year, this is a burden that the remaining signatory companies can no longer bear.

And let there be no doubt, if Congress does not resolve this issue before the end of the contract, current signatories will walk from negotiations and we will witness nationwide strikes in our coal fields, and widespread disruption in those industries that depend upon coal for energy. As Governor, I have lived through such a strike, and I can assure my colleagues that we cannot afford a nationwide strike next spring.

But this bill is not the answer. And I will tell my colleagues why it is not the answer. We have a nationwide problem that calls for a nationwide solution. We cannot sit by and watch our elderly miners, their widows, and their families lose health-care benefits

promised to them 45 years ago in a contract negotiated by the Federal Government. But we cannot find that solution by pitting east against west and union against nonunion.

This bill only serves to divide, not unite. This bill finances the problem by taxing some western coal at 15 cents a man hour, most eastern coal at almost \$1 an hour, and some coal not at all. As we say down in west Kentucky, something about that ain't right. Something about that just ain't right.

The fact is, under this bill, the average price of coal in my State increases at least 16 cents per ton. On the other hand, the average price of coal in neighboring States decreases by anywhere from 6 to 26 cents per ton. The resulting 22 to 42 cent differential makes my Kentucky coal noncompetitive and will cost active miners their jobs as the coal fields close down in my State. This pits my miners against their brothers in neighboring States.

Before this provision was amended by the Finance Committee, Kentucky coal was at least 21 cents per ton more expensive than western U.S. coal. That price differential will shut high-sulfur west Kentucky coal right out of the market.

Under the amended version of the bill that's before us now, the western coal that hasn't been completely exempted will never bear more than a 15-cent-per-hour tax. This means that Kentucky coal, taxed at about \$1 per hour, will be taxed at a rate almost 600 percent higher than some western States which produce more coal than we do. And that figure will only grow.

This bill provides that this tax will not increase in the west. The entire increased cost of this fund in the future will be borne by eastern U.S. coal. That pits my State, and other Eastern States against Western States.

I compliment my good friend from West Virginia, Senator ROCKEFELLER, for getting this provision in the tax bill. We had to send a message to our retirees that we will protect their benefits, and we have done that. But mark my words, as long as this division exists, as long as we pit members of the coal family against one another, we are setting ourselves up for disaster, both in human and economic terms.

The road we are on now leads to nowhere. We all know this bill is going to be vetoed by the President, and we do not have the votes in this body to override that veto. So this issue will be back.

There is more than one way to skin a cat, and more than one way to solve this problem. And I am serving notice that I intend to find a fairer way that will not penalize Kentucky coal, and will serve to unite, instead of divide, this industry.

We are not going to turn our backs on these retirees. We cannot and we will not. United, we can find a solution

that will not cost those still mining in the coal fields their jobs. United, we can find a solution that will not unfairly shift the burden of resolving this problem to only a few in the industry, or to those least responsible for the problem. We can solve this problem. And I will not rest until we do.

Mr. BRADLEY addressed the Chair.

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

Mr. BRADLEY. Mr. President, I must share my dilemma with the Senate because I face a real one. I think all of us face a real one.

All of us know that this tax bill is going nowhere. The President will veto it, and we are not going to be able to override the veto. And I suspect all of us know that the best tax policy for us in the short term is no tax bill at this time, or at least only a millionaire's surtax used for health and education.

There's a strong part of me that wants to get beyond the bill and get to work on the long-term solutions we all know we need—solutions that will lead to less consumption, more savings, more investment, more and better education and health care, and reduced deficits.

At the same time, I would like this bill to be a step in the right direction. Chairman BENTSEN has been fair, generous, and considerate in putting together a bill that tries to address some of the inequities of the last 12 years. I told the chairman in our first discussion my own reservations about the bill, and he has been unfailingly gracious in listening to my concerns, as he has been with every other Member of the body.

In the end, I have to weigh what I think is the right thing for the country. As I said in my opening statement, sometimes the best policy is the best politics.

Like other members of the Finance Committee, I fought to get into the bill that which I thought was good—self-reliance loans which would make up to \$30,000 available for any American up to the age of 50 who agrees to pay a percentage of their future income back into an educational trust fund. I continue to believe that self-reliance loans are in the national interest. It will help all Americans to be able to go to college, which will, in turn, improve our economic productivity. And the chairman has been generous to include that provision in this bill, for which I thank him. I hope, if this bill is indeed vetoed and we're back to considering an economic package, that the Senate will favorably regard this proposal. If it does not, I will continue to push it in every forum I have because I believe it is in the long-term national interest.

There are other provisions in this bill that I support, such as Chairman BENTSEN's small-business health-care reform, an important step in the right direction toward comprehensive health-

care reform, and such as the millionaire's surtax, which corrects some of the tax inequities of our original sin of tax policy in the 1980's, the 1981 Tax Act.

But I have to say that there are also problems with the bill. I believe that a tax bill should have one central coherent purpose. This bill addresses many important issues—the need for investment in health and education, the need for millionaires to pay more taxes, the need to bolster the economic resources of American families with children.

But a central goal is absent. The bill works at cross-purposes. You cannot say that you want to tax the wealthy and then give back \$23 billion in special-interest loopholes that primarily benefit the wealthy and corporations. You cannot say you are fighting for the middle class with kids, much less the entire middle class, when 25 percent of the poorest children and millions of two-earner families with children cannot fully take advantage of the tax credit.

I fear that we are poised on the brink of providing the wrong solution to an imagined problem, instead of the right solution to a real problem. Some will say I am bailing out of a train that is already moving. That is correct. But I have to ask, is it better to bail out now, or later look back with regret for having voted for the bill?

In 1981, I opposed the major tax bill. I opposed it because, given the choice between no bill and that bill, no bill was a better idea.

Within the next 2 years, we will have a last chance to get the deficit under control. Then, we will have to raise taxes as well as cut spending. Then, those taxes will need to go not for funding new special interest loopholes or tax cuts, but to reduce the deficit.

People say, "so what is the conflict today? This bill will be vetoed. It will not become law—then we will have the money for deficit reduction."

But if our stated goal today is to help the middle class, how can we fail to make that a priority on the next bill without losing even more credibility with the skeptical middle class?

If we make middle-class tax cuts and special-interest loopholes the purpose of the next bill, then how will we reduce the deficit? On the other hand, if we do reduce the deficit, as we should, we will have gone back on the pledge to cut middle-income taxes embodied in this bill.

Mr. President, times are getting tougher in America every day, and working Americans are getting poorer in the context of the rich getting richer. What people need is the truth.

As the gravely ill patient said to the doctor, "Just tell me the truth." The truth is that this bill will not reduce the deficit. The truth is that it is too little too late to jump start the economy. The truth is that it will provide

only limited tax relief to a very small percentage of taxpayers in New Jersey and the Nation. The truth is that it will open up new loopholes which primarily are used by wealthy Americans and corporations. And the truth is that given a choice between this bill and no bill, I choose no bill.

Therefore, I believe that even though this bill has some good things in it, I cannot vote for it.

Mr. MITCHELL. Mr. President, as we approach final enactment of this legislation, I think it is important that we review the general provisions, the intentions, and what we hope will be the effects of enactment of this legislation.

I support the bill. I believe it is a good, fair bill. I hope each Senator will weigh the provisions carefully and will vote for the bill. I commend the chairman of the committee for the diligent and constructive effort which he has expended in putting this bill together. I commend the ranking member for his cooperation in permitting his bill to proceed and be considered and completed this week.

This bill has several purposes, one of which is to promote economic growth. The bill accepts the seven growth incentives proposed by the President, some of them in modified and improved form.

So if the President's growth incentive package would have spurred growth, then this bill will do so, because it accepts the provisions proposed by the President, and in some of them, as I noted, improves them.

This bill goes beyond what the President proposed, to encourage fairness in our tax system. It raises income tax rates on the wealthiest seven-tenths of 1 percent of all Americans. The increase will not affect 99.3 percent of all Americans, and many of them, many of the 99.3 percent unaffected by the rate increase will receive a tax reduction, an overdue and fair reduction.

The middle class in America has been socked long enough. They were not helped by the tax bill of 1986. Benefits to that were primarily at the very bottom of the income scale, and to those at the very top of the income scale. The middle-class Americans have seen their incomes decline and their taxes rise. Restoring tax fairness to the code by reducing the tax burden on middle-income families and increasing the tax rates on the wealthiest seven-tenths of 1 percent is an appropriate objective of this legislation.

Some scoff at the size of the middle-income tax cut. But a 25-percent reduction in tax liability is nothing to scoff at or laugh at. No one laughed when people proposed to cut the tax burden of the very wealthiest by 25 percent. Why is it, then, funny to cut taxes of middle-income Americans by 25 percent?

So, Mr. President, I hope our colleagues will join in supporting this im-

portant legislation. I commend the chairman, and I hope every Senator will vote for it.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from California is recognized.

AMENDMENT NO. 1731

(Purpose: To strike the rate increases)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 1731.

On Page 958, strike all beginning with "Section 3001" through line 12 on page 961.

Mr. SEYMOUR. Mr. President, I offer this very simple direct amendment that strikes the tax rate increases out of the Finance Committee tax bill. We talk a lot around here about fairness and about creating jobs. Well, let's be plain the tax hikes in this bill are nothing more than a tax increase on small businesses and job creation. Sixty percent of all jobs created every year are created by small business, and most small businesses are taxed at individual income tax rates.

Once again, the Democrats' misguided soak-the-rich campaign is, in fact, socking the small businesses on Main Street, who are fighting for survival and struggling to create jobs. Boosting their tax burden will only force small employers to lay off workers, cut business investment, and all at a time when we want to boost investment and create jobs.

No wonder employers and employees are asking: Where is the fairness? Alone, these tax increases are a big burden for small business. But when you consider some of the other provisions in the Bentsen bill, the picture is even gloomier for our Nation's smaller employers.

In the Bentsen plan, the capital gains provision is a complicated monstrosity that provides little or no incentive for new investment and job creation.

Instead, it is a bonanza for the tax lawyers and accountants.

The small business stock proposal is geared solely toward new business ventures, excluding the millions of existing small businesses that are the backbone of our economy. That is why we need a capital gains provision like the President's proposal which is comprehensive and will help existing small businesses.

Mr. President, the Democrats' capital gains tax provision is not that great a deal for small business and farmers, who will be taxed at the highest rates if they realize a significant one-time gain on the sale of his or her only major asset.

It is another way of stiffing rural America at the expense of an election

year gimmick. No wonder small businessmen and women are asking where is the fairness. So let's add it all up. It is pretty easy to claim some phony high ground on the so-called fairness issue, but when you put the hype to the test, it is pretty clear the Democrats are slapping themselves on the back for a soak-the-rich tax that really is a slap in the face of the very Americans that they claim they are helping, middle-income families, small businessmen, and small businesswomen, farmers, and honest taxpayers.

Let's face it. The Democrats want a nickel-and-dime tax cut package that tosses a few quarters a day to some of the so-called middle class and then raises taxes on just about everyone else, including, you guessed it, the middle class.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SEYMOUR. Mr. President, I yield 3 minutes to Senator GRAMM, of Texas.

The PRESIDING OFFICER. There is no time agreement. The Senator from Texas may ask for his own time.

The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, when Jimmy Carter was President, when the Democrats controlled both Houses of Congress, the top 1 percent of all income-earning families in America paid 18.2 percent of all the income taxes paid in this country. And our Democratic colleagues said the tax system needed to be changed so that rich people paid their fair share. And, in fact, what we did on a bipartisan basis was to lower rates and close loopholes. Today, the top 1 percent of all income-earning families in America pay 25.4 percent of all the taxes paid, up 40 percent from the days when Jimmy Carter was President and the Democrats controlled both Houses of Congress. And now they are saying rich people do not pay enough taxes.

Mr. President, what we have before us in the committee bill is a proposal to raise marginal tax rates by 16 percent and, by eliminating deductions on many working American families, to raise the effective marginal tax rate by up to 40 percent.

Mr. President, what is going to happen to the incentive for people to work, save, and invest when marginal tax rates are raised by 16 percent on high income Americans?

Let me tell you. You do not need a Ph.D. in economics to figure it out, but let me tell you what Ph.D.'s in economics say about it in a study by the National Center for Policy Analysis in Dallas. They looked at this bill with all the so-called incentives plus the increase in marginal rates and concluded:

After all dynamic adjustments are made, higher taxes on investors would lower after

tax investment income by only \$4 billion over the next 5 years. Yet this would cause total investment in the economy to contract by \$101 billion, resulting in lower wages and less revenues for Government.

They then estimated that the bill before us would cost Americans, by 1996, 233,000 jobs, would bring investment spending down \$101 billion, would cost the average American family \$650, and would raise the Federal deficit by \$20 billion.

Mr. President, this is not a jobs bill we have before us. It is a job-destroying bill that has been put forward to poison the President's economic incentive program. It is a bill that tries to revive the politics of class struggle, which has failed in Eastern Europe, which has failed in the Soviet Union, and, obviously, some of our colleagues would seem to believe that because it is working in Havana, Cuba, they can make it work here.

Let me sum up by saying, Mr. President, that there is bad news and there is good news. The bad news is the Democrats control both Houses of Congress. They are proposing massive increases in tax rates that would cripple the American economy and put our people out of work. The good news is that under the Constitution, one man is empowered to stop this from happening, and his name is President George Bush, and he is going to veto this bill and prevent it from becoming the law of the land.

We have before us now the most important amendment that has been offered in this debate. This is an amendment that cuts through all of the phony and gets down to the bottom line. If you vote against this amendment, you are voting to raise tax rates. If you vote for a procedural motion to kill this amendment, you are voting to raise marginal tax rates on the people in this country. I am for this amendment. I congratulate our colleague from California for focusing in on the issue: Are you for raising taxes or are you against it? I am against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this has been an interesting set of statements. I listened to the Senator from California talking about how he wants to cut rates. How short the memory is. It seems to me it was just yesterday I saw the Senator from California vote for over \$50 billion of new taxes, and he joined many of his colleagues in doing it. That is not consistency.

When you are talking about what kind of a tax rate we are speaking of, we are talking about one at 36 percent, a 5-percentage point increase over today's top rate. This new rate would only apply to family incomes in excess of \$175,000 a year. And the \$175,000 figure is after all tax deductions, meaning that these families are making some-

thing over \$200,000 a year. We are not talking about little mom-and-pop operations.

When I look at the top rates around the rest of the world and what they are for our major competitors, whether we are talking about Germany or talking about Japan, we are talking about top rates of 50 and 53 percent for those two countries.

Then I ask what is the top tax rate in this country for the person who is making \$35,000 a year and the person making \$1 million a year? The answer is that there is a difference of 3 percentage points between their tax rates. Are these 3 percentage points highly progressive tax rates we are speaking of? No. No, we are talking about bringing back some fairness to the system.

Concerned about a 36-percent rate? Remember the Republican President Reagan and what he offered in 1986? He was striving for a 35-percent rate for people that were making over \$70,000 a year. 35 percent. And we are talking about a 36-percent rate that will not apply to the vast majority of those people between \$70,000 and \$175,000.

No. No. We are talking about fairness. We are talking about middle-income people. The median income for a family today is \$35,000 in this country, and they are people that have taken the toughest hit in the past decade. They are the people who saw their taxes go up and their incomes go down over the last decade. The children have been hit, and young families with children. That is where we have directed the tax relief. Our bill provides \$300 per child per year, and we are not talking about a temporary change but a permanent one.

You saw the President's approach. He would provide a \$500 personal exemption, giving the better tax cut to the person making more income.

No, no. We made it a tax credit for each child, a dollar-for-dollar reduction in taxes owed.

What you are seeing with this proposal on the part of the Senator from California is to have a piece of legislation that would lose \$43 billion. Yes, \$43 billion. That is the sort of thing that got us into this kind of trouble—not paying for changes and not facing up to paying for that kind of a loss.

And then he talks about the capital gains rate and what it does. I looked at the President's proposal on capital gains, and I saw that two-thirds of the money to be gained in the tax savings would go to people making over \$200,000 a year. In our bill we are talking about two-thirds of that money going to people making under \$100,000 a year. Yes, it is time for some tax fairness. We coupled that with trying to work with the President by taking seven of his incentives for growth and investment. We felt it was important to try to encourage growth and investment in this country.

We added to that the IRA, in order to increase savings in our country. It is important that we have the capital to be able to compete. We must try to see that we have money to match what we are seeing in the building of factories in Japan and what we are seeing happening in West Germany. That is a part of this package.

Then the Senator did not speak of what we have tried to do to work out a bipartisan solution insofar as accessibility of health care and affordability of health care. I walked through many a shop, many a small business, talking to the employees, talking to the employers, listening to their problems. I was trying to see if they have health insurance for their employees. I heard them say, "we had to raise the deductible; we had a 24-percent increase last year and a 24-percent increase the year before," almost 50 percent. They raise the deductible, move to coinsurance, then they drop the dependents, and finally they drop the policy altogether. That is why we have 34 million people without health insurance in the country today.

This tries to address that kind of a problem. The President put in his package much of what was in the bipartisan bill that I introduced with Senator DURENBERGER. I think that is the ultimate compliment.

We have made substantial progress here in trying to address some of the concerns of the Nation. We will not turn the whole economy around overnight. I understand that. It will take time. We did not get into this kind of a trouble overnight and build these kinds of deficits. But this is a positive step in the right direction. It helps restore fairness while providing some incentives for investment. It encourages savings, and I think it is a step in the right direction. I urge my colleagues to defeat this amendment.

At the proper point I will be raising a point of order because this bill would have some \$43 billion in losses if this amendment were added to it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Is there a time agreement on this amendment?

The PRESIDING OFFICER. There is no time agreement.

Mr. DOLE. Is it the intention of the chairman to try to get a time agreement?

Mr. BENTSEN. I would be delighted to. In all candor, I was not going to debate this issue, and just raise the point of order. However, after some statements that have been made I could not accept that at all. I would be delighted to.

Mr. DOLE. It is our hope it would be 10 minutes on a side. We have a number of colleagues on both sides telling us they would like to get out of here. But

if it is not the desire of the chairman—

Mr. BENTSEN. I would be delighted to. I would say another 5 minutes on each side.

Mr. DOLE. Each have 5 minutes more?

Mr. BENTSEN. I would be agreeable to that; and no second-degree amendments.

Mr. GORTON. Mr. President, reserving the right to object, I do wish 3 minutes on this, I say to my leader. If it is taken up by others, I will object to 5 minutes a side.

Mr. SEYMOUR. So 10 a side?

Mr. DOLE. Ten minutes on each side?

Mr. BENTSEN. We will take 10 on each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, might I say to the Republican leader, I do not need any time on this but I would like to inform the Senate that I have an amendment. It is relevant to discuss this issue on that amendment. So if the distinguished Senator who chairs the committee desires to debate the issue of fairness of his bill, he will have a chance again. And what the Republican votes yesterday meant when we voted again their package and for Mr. LEVIN's, we will debate that one, too.

Mr. DOLE. Can we get the agreement?

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

Mr. DOLE. Will the Senator yield?

Mr. SEYMOUR. I yield the minority leader 2 minutes.

Mr. DOLE. Mr. President, as I understand we have how many minutes remaining before the additional 10 minutes?

The PRESIDING OFFICER. The Chair understands there is 10 minutes on each side.

Mr. DOLE. Ten minutes from now on each side? Is that the understanding?

Mr. BENTSEN. That is agreeable.

The PRESIDING OFFICER. That was the Chair's understanding.

Mr. DOLE. Mr. President, first let me congratulate the Senator from California. This is the key amendment. This is the amendment we have been waiting for. This will make the distinction, as indicated by the Senator from Texas, between those who want tax increases and those who are opposed to tax increases.

There was some reference made to a vote yesterday. We certainly tried to kill the bill yesterday. We came very close to killing the bill yesterday. We had to wait 42 minutes—42 minutes after the 15-minute rollcall time expired—for my colleagues on the other side to round up enough vote changes, or this bill would have been history.

The bill that passes is history in any event. The President is going to veto it. The veto is going to be sustained.

We have had a lot of exercise, a lot of good speeches on both sides, some good amendments. This is the best amendment we have had so far.

It just seems to me when we talk about 1 percent, the rich people—keep in mind that 89 percent of that tax increase comes straight out of the pockets of American small business. This is because small business, such as sole proprietors, partnerships, and subchapter S corporations, file their taxes as individuals. So when we get out the charts and they talk about taxing the rich, they are talking about the people who are creating jobs, businessmen and businesswomen.

If that is what you want, to in effect destroy small business in their efforts to create more jobs, then you can vote for this procedural motion. If not, vote with Senator SEYMOUR, Senator GRAMM, and myself and others on this side. And hopefully some of the other side.

I look back at what happened in 1986; I think the bill passed this body 97 to 3. I did not see much agitation at that time to raise rates. We were trying to lower rates. We were trying to keep it down to three rates. Now we are back to the same old games, raising the rates, raising the rates, saying they are raised on the rich. But I must say, thanks to the Senator from New Mexico who furnished me this information, we are going after small business—small business men and small business women, the people who create about 80 percent of the jobs in America.

I am pleased we are nearing the end of this debate so we can get this political bill to the President, get it vetoed as it should be, and get on with the main event—a bill that will really help promote economic growth and jobs, without raising taxes.

Let us face it, the bill before us is another salvo in the majority Democrats' phony class warfare campaign—the mission, to seize the so-called fairness issue, defend the middle class, and try to embarrass the Republicans and the President as the defenders of the so-called rich.

In fact, the only party this bill is going to embarrass is the Democrat party, because the more you look at the Finance Committee bill, the more you realize it is not all it is cracked up to be. The bottom line is, their bill may be long on promises, but it is real short on fairness—across the board.

#### THE FACTS ABOUT THE MIDDLE CLASS TAX CUT

It is easy to make speeches about the middle class, but let us look at the facts, starting with the much ballyhooed middle-class tax cut, a \$300 nonrefundable tax credit for children under the age of 16. It must come as a surprise to a lot of senior citizens that they have been left out of the middle-class, and left out in the cold. In addition, more than half of all American children live in families that are ex-

cluded from this so-called targeted tax credit. A lot of two income families—an urban police sergeant and a school teacher, for example—would get nothing under the Finance Committee proposal.

In fact, when you add it all up, less than 3 percent of the tax reduction would go to families with income under \$20,000. And when the Democrats talk about soaking the rich, a lot of hard-working Americans may be surprised to learn that 89 percent of the revenue raised under the Democrat tax hike would come from individual taxpayers with unincorporated business income, hardly the bath the Democrats are promising for the high-earning fat cats.

So, let us not try to fool anyone. The middle-class is asking "Where's the fairness?"

#### HOME BUYER TAX CREDIT EXCLUDES MOST FIRST-TIME BUYERS

One of the most innovative growth initiatives proposed by the President is the tax credit for first-time homebuyers. What the Democrats have done, however, is limit the \$5,000 credit to the purchase of new homes only. I did some checking, and it turns out that more than 80 percent of all first-time homebuyers purchase existing homes. So, while the Finance Committee plan leaves more than 80 percent of first-time homebuyers out in the cold, it's a gold-plated subsidy for the big developers, at the expense of the 2 million American taxpayers trying to sell an existing home. The Finance Committee plan also discriminates against the areas that need help the most, our innercities, older neighborhoods, and rural areas looking for new blood in the absence of new construction. American home buyers, home sellers, and folks in rural America and all the innercities are asking—where's the fairness?

#### TAXING SMALL BUSINESS AND JOB CREATION

The Bentsen plan is just another big burden on small business. The tax hikes in this bill are a tax increase on small businesses and job creation. Most small businesses are taxed at individual rates, and 60 to 80 percent of all jobs created every year are created by small business. Just ask any business man or woman on main street, and they will tell you that higher taxes and job creation just do not mix. Times are tough enough without jacking up the tax burden on our Nation's primary employers. Let us face it, the American people are demanding paychecks, not higher taxes.

The Bentsen plan's small business stock and capital gains proposal is not only complicated, it provides little or no incentive for new investment and job creation. Sure, this provision may make more work for the tax lawyers and accountants, but by focusing solely on new business ventures, it excludes the millions of existing small businesses that are in the business of making jobs, too.

Is this the fairness American businesses and workers are demanding?

#### COAL TAXES

The Bentsen bill before us turns tax fairness on its head in yet another way. The Democrat package proposes an unprecedented bailout of two United Mine Workers health trusts, financed by a tax on imported and domestically produced bituminous coal. That means companies and workers who have absolutely nothing to do with the United Mine Workers and the Bituminous Coal Operators Association are being told to pay for benefits that they did not negotiate and do not receive.

That is right, nonunion coal workers subsidizing the health benefits of union retirees and their dependents to the tune of hundreds of dollars a year per worker, and millions of dollars total per year. And when you throw in all the special interest exemptions in this proposal, which I will discuss in detail at another time, it all adds up to job losses and lower wages for nonunion workers, and higher utility bills for consumers. I hope we can address the funding problems of retiree health plans for coal miners in a serious and responsible way, but when they see this, the American people are asking where is the fairness?

#### TRADE: ANTI-CONSUMER, INVITES RETALIATION

The Bentsen package also includes a major anticonsumer provision that could blow up in America's face at the ongoing world trade talks. By reclassifying so-called sport utility vehicles, the popular minivans so many families depend on, the Democrats would boost the tariff rate on these imported vehicles from 2.5 percent to a whopping 25 percent. This kind of ill-advised protectionism would sock American consumers with a \$4,500 price hike on the purchase of a \$20,000 van.

This measure might not only be a violation under our GATT obligations, but could also trigger a damaging trade war with our European and Japanese trade partners, who could increase duties on the \$1.2 billion in American motor vehicles they import from us each year. That would be bad news for U.S. automakers, American auto workers, and all U.S. industries—including agriculture—with a major stake in the delicate GATT negotiations. Where's the fairness in that?

#### EDUCATION LOANS: WHERE'S THE PILOT?

Most folks do not know that the Bentsen bill wants to get Uncle Sam into the education loan business—not just insuring loans but making them—on an experimental basis. If you ask me, \$2.6 billion is a lot of money to spend on an experiment, especially when there is no evidence to show that the Federal Government can manage student loan capital better than the private sector. A program of this magnitude runs the unacceptable risk of allowing unscrupulous proprietary

schools to entice thousands of low income students to take on excessive debt burdens. While it may have a few attractive features—and the goal of promoting access to higher education is an admirable one—this program is really a pilot program without a pilot.

## HEALTH CARE

On the health care front, the committee bill includes some worthwhile proposals. It is unfortunate that they are attached to a bill that has no discernible pulse and a life expectancy of about another week. The movement towards prevention in the Medicare program is commendable, and I have no doubt that we can agree on much needed reforms in the small group market of the insurance industry to make insurance more affordable to small businesses, but this bill is dead on arrival.

## ELECTION YEAR BENEFITS FOR RULING CLASS

It seems to me that the biggest benefits from this bill are not going to go to the middle class. They are going to go to the ruling class—the Democrat incumbents who only want election year benefits for themselves.

In January, President Bush gave us a very reasonable deadline for action on an economic growth package. As I look at my calendar, I see that we have just 7 days remaining on the deadline. When the calendar hits zero—and we have nothing to show for it—the American people, and President Bush, will have no one to blame but Congress.

So I want to congratulate the Senator from California. And I want to congratulate all those who are going to support us. I hope we have a majority. We can still kill this bill. There is still time. This is the key amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield 3 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, a few moments ago the majority leader said that if the President's bill would spur economic development, this bill will. Mr. President, we can turn that statement into a true statement if, and only if, we accept the amendment of the Senator from California.

This bill as it exists now, increasing tax rates on the very people who will provide jobs, will do exactly the opposite. It will depress our economy.

As the minority leader has already eloquently pointed out, the great bulk, some 90 percent of our businesses, file their income tax statements as individuals because they are individuals or partners or members of subchapter S corporations. Between 80 and 90 percent of this tax increase in this bill, claimed to be so fair by the senior Senator from Texas, will come out of small businesses, small business people who do not spend their income on yachts or luxurious automobiles, but who plow it back into their own businesses in order to create and enhance job creation in

this country, with some 80 percent of the job creation coming just precisely from the people who will be taxed by this bill without the Seymour amendment.

This is a fairness bill, only if fairness means misery loves company, and the present unemployed want another several million to join them. Except for that, it is not a fairness bill at all. It will be a bill which creates jobs if the amendment of the Senator from California is accepted.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, I yield 1 minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as I said, I will speak in much more detail shortly, but on this issue, since the distinguished chairman questioned the vote of a number of Republicans yesterday, we were trying to get the taxes that they were raising applied to the deficit.

I would merely ask the distinguished chairman, why did he change his mind? He put a bill before the American people that would have used defense savings to give the increased deduction to families who have children. But when that got over here on the Democratic side, their typical tax-and-spend took over and even the distinguished chairman had to give up his idea. And he now explains that he is helping the economy in the very way that he was worried about just 2 months ago when he did not want to raise taxes.

The PRESIDING OFFICER. One minute has expired.

Mr. SEYMOUR. Mr. President, what is the remainder of my time?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. SEYMOUR. I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, let me reply to the Senator from New Mexico because I answered that in detail at length this afternoon. I said that was quite true, that I had started out hoping I could do it through the peace dividend. I would much have preferred to do that. But I must say when Bob Reischauer came in from CBO and said it was going to take \$133 billion just to hold the numbers constant over the 5 years, that is when I realized we could not do it. We have lost ground over the eighties with respect to our infrastructure and what has happened to the education in our country. Therefore, I felt that we could not look to the peace dividend; there was no way we could. I made that statement very clear during this debate.

I yield 3 minutes to my distinguished friend from Maryland.

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

Mr. SARBANES. Mr. President, we have heard a lot of thunder from the other side of the aisle on this issue, and I just want to try to get some facts out here.

The first thing I want to do is concede that the very wealthy, and I am now talking about the top 1 percent, have paid more taxes since 1977. I want to talk about the top 1 percent because essentially what this bill does is it places some additional taxes on less than the top 1 percent of the population in order to give a tax cut to middle-income people and to provide the money to fund some of the investment incentives that are contained in this bill.

The wealthy have paid more taxes since 1977. That is absolutely the case, and the reason the wealthy have paid more taxes is because the wealthy have gotten much more income. In fact, their increase in income has significantly exceeded their increase in taxes.

The logical extension of this would be if you had one person who had all the income and paid all the taxes. Something like that is at work in this country.

As this chart shows, the top 1 percent per family in constant dollars in 1977 had an average income of \$315,000. In 1989, they had an average income of \$560,000. That is an increase of 78 percent in their pretax income.

Their Federal taxes went up by 34 percent. So they paid \$150,000 in Federal taxes when previously they paid \$112,000. But their after-tax income increased from \$203,000 to \$410,000. So what you have is a tremendous increase in income, 78 percent, an increase in their taxes of 34 percent and their after-tax income more than doubled. It went up 102 percent.

So my colleagues are right when they say the wealthy are paying more taxes but they do not tell the full story. The whole story is this tremendous increase in income growth for the top 1 percent. As the New York Times said the other day, the top 1 percent of the income scale captured 60 percent of all the income tax growth between 1977 and 1989.

So there has been a tremendous boost in the amount of income growth. In fact, the top 1 percent in the country now get 13.5 percent of all income. The bottom 40 percent get 13 percent. So the top 1 percent, which is the only group affected by the additional taxes in this bill, get more of the income share than the bottom 40 percent of the income receivers.

All this bill does is it puts a little extra burden on the top 1 percent, seven-tenths of 1 percent. The ones who have reaped enormous benefits over the last decade and uses some of that money in order to lift the tax burden on middle-income people in this country.

I think that is an important fairness issue. It also founds the investment incentives that are contained in this bill.

Mr. President, I hear the wails and the weeping, but I just want to make the point that the people who are being affected have reaped an enormous increase in their pretax income and an enormous increase in their after-tax income.

Mr. President, in fact their after-tax income has gone up by more than their pretax income which tells you something about how the rate structure has worked over the last decade.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield 1 minute to Senator GRAMM of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by congratulating our Maryland colleague. He has discovered how we created 20 million jobs, and I now believe in economic miracles. Let me take him on a trip down memory lane.

He likes to start in 1978, but who was President in 1978? Jimmy Carter, and between 1978 and 1981 when Jimmy Carter and the Democrats who controlled Congress set policy, every income earning group in America became poorer. The poorest saw their income go down by 11 percent. The richest saw their income go down by 6.9 percent. But beginning in 1982 when the Reagan tax cut went into effect, since that time between 1982 and 1990 every income group has gone up, the poorest by 10.7 percent, the richest by 18 percent.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. The only Democrat speaking in America today who knows anything about economics, former Senator Tsongas, has said, paraphrasing him, Democrats love investment but they hate investors. Democrats love jobs, but they hate people who create them. Well, Mr. President, that is political schizophrenia of the worst sort. I love investment and I love people who create jobs, and I love the American free enterprise system, and I thank God that it works, but I know there are some here whose policies would kill it dead.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from California has 2 minutes and 15 seconds remaining.

Mr. SEYMOUR. Mr. President, I yield myself 1 minute.

Mr. President, I am shocked, dismayed, and disappointed in the senior Senator from Texas' comments relative to myself and my colleagues voting on a tax increase. The senior Senator from Texas knows more, or has forgotten more, I should say, about parliamentary procedure and the rules

of this house and the way it operates and the partisan battles that take place than I will ever remember.

The senior Senator knows very well that what took place yesterday in that vote with myself and my colleagues was an attempt to kill the bill, which we have been doing since the beginning. We may not succeed but the President will.

I do not support tax increases, never have, and never will. So I am going to vote against the Democratic tax increase bill and then when the President vetoes it, I am going to vote to sustain his override.

What we are talking about is tax increases. I suggest, Mr. President, we ought to call things exactly as they are.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

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

Mr. BENTSEN. Mr. President, I yield 1 minute to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, no matter how you cut it, Jimmy Carter is not causing the economic stress to the American public today. It is caused by the policies of Ronald Reagan and George Bush. They have been around for 12 years. They are the ones who have caused the problems that are out there today.

The thing I find most interesting about the Senator's amendment is what he left out. Of course, he wants to eliminate the rate increases, but he does not want to eliminate those things in the bill that benefit the special interests.

For example, he does not want to do anything about the billions of dollars that are stuffed into the pockets of real estate interests. He does not want to do anything about the billions of dollars that are stuffed into the pockets of oil and gas interests. He does not want to do anything about the billions of dollars that are spread over the whole corporate sector. No. He only wants to get the rate increase.

So, Mr. President, I think the important thing here is what was left out. The prediction is coming true. If you stick things back in, rates go up. And that is precisely what is happening. That is not caused by Jimmy Carter. That is caused by George Bush and the policies of the last 12 years.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 1 minute.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Texas. I probably will not need a minute.

You can show graphs and charts and have all of this happy face talk about this great decade of the 1980's, but I think the problem with that is the ex-

perience of people's lives regardless of the graphs and charts just does not teach that to them.

People are hurting in our country; many people are out of work. People do not have jobs they can count on, decent wages with decent fringe benefits. People are worried that we have not minded the economic store, that we have not invested in our own economy.

All the graphs and charts you want to show on that side about how great it is for people in all income brackets just is not borne out by the experience of their lives. It is not credible and not believable.

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

The Senator from Texas.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. SARBANES. Mr. President, will the Senator let me make one observation?

Mr. BENTSEN. Yes.

Mr. SARBANES. The prosperity of the country was built by building a strong middle class. The whole difference on this issue is whether you are going to subscribe to trickle-down economics which believes in placing virtually all of the income growth at the very top of the scale and then hoping that somehow it will trickle down to everyone else or whether you are going to try to give economic viability to the middle-income and middle-class people in this country. That is what this bill is about.

The bill is an effort to help lift some of the burden that has fallen so unfairly and so heavily upon middle-income and middle-class people and place a small but reasonable burden, on the people at the very top of the income scale who have reaped enormous, disproportionate benefits over the last decade.

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

The Senator from California has 1 minute remaining.

Mr. SEYMOUR. I thank the Chair.

Mr. President, this has been a healthy debate, but I think there is a lot of confusion. Senator BRADLEY suggested that this is President Bush's horrible bill. This is your bill. It is the Democratic bill. All we have been trying to do is kill it, and all I am trying to do is take the taxes out of it.

The problem here is we do not recognize what really makes this economy go. I can tell you; I was a small businessman for 17 years and 89 percent of the \$57 billion taxes you want to put on the back of small business, that is where it is going to come out.

Small businesses pay—as individuals, they pay income tax, and so when they make \$150,000 profit, do you think they are going to create more jobs? Do you think they are going to buy more equipment? Do you think they are

going to expand their business? Absolutely not. What they are going to do is pay more in taxes.

So this debate has been healthy, Mr. President, but the line is divided.

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. Mr. President, I raise a point of order; the amendment loses revenue over the 5-year period from 1992 to 1996. I raise that point of order in section 311(a) of the Budget Act.

[Mr. SEYMOUR addressed the Chair.]

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I move, pursuant to section 904, to waive any section of the Budget Act of 1974, as amended, which provides a point of order against this amendment for the purpose only of waiving the provisions of the Budget Act with regard to the pending amendment.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 43, nays 55, as follows:

(Rollcall Vote No. 50 Leg.)

YEAS—43

Bond	Gramm	Pressler
Brown	Grassley	Roth
Burns	Hatch	Rudman
Chafee	Hatfield	Seymour
Coats	Helms	Shelby
Cochran	Kassebaum	Simpson
Cohen	Kasten	Smith
Craig	Lott	Specter
D'Amato	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Durenberger	Murkowski	Warner
Garn	Nickles	
Gorton	Packwood	

NAYS—55

Adams	Conrad	Hollings
Akaka	Cranston	Inouye
Baucus	Daschle	Jeffords
Bentsen	DeConcini	Johnston
Biden	Dixon	Kennedy
Bingaman	Dodd	Kerrey
Boren	Exon	Kerry
Bradley	Ford	Kohl
Breaux	Fowler	Lautenberg
Bryan	Glenn	Leahy
Bumpers	Gore	Levin
Burdick	Graham	Lieberman
Byrd	Heflin	Metzenbaum

Mikulski	Reid	Simon
Mitchell	Robb	Wellstone
Moynihan	Rockefeller	Wirth
Nunn	Sanford	Wofford
Pell	Sarbanes	
Pryor	Sasser	

NOT VOTING—2

Harkin	Riegle
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The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 55. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The Chair is prepared to rule on a point of order.

Adoption and enactment into law of the pending Seymour amendment would cause revenues to be less than the appropriate level of revenues than the current resolution on the budget by \$43 billion for the period of fiscal years 1992 through 1996, in violation of section 311(k) of the Congressional Budget Act.

The point of order is well taken, and the amendment falls. Who seeks recognition?

[Mr. DOMENICI addressed the Chair.]

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

AMENDMENT NO. 1732

(Purpose: To provide short-term economic growth incentives and for no other purpose)

Mr. DOMENICI. Mr. President, I have worked on economic growth packages. I know an economic growth producing package. Mr. President, the Finance Committee bill is no economic growth package.

Having said that, I send to the desk a real economic growth package. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 1732.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BENTSEN. Will the Senator yield for just a moment?

Mr. DOMENICI. I am pleased to.

Mr. BENTSEN. I agreed with the Senator from New Mexico that he would have 15 minutes and that I would have 5 minutes, and that would be the maximum time.

Mr. DOMENICI. Oh, yes, I have agreed to 15 minutes and the chairman will take no more than 5 minutes. I will not use up the 15 minutes. I assume the Senator will reduce his proportionately. I want everybody to gather around because you have all been telling me not to speak and I want you to listen.

I just got through telling you that this finance package is no economic growth package. And I have sent one to the desk.

Mr. BENTSEN. May we get that agreement?

Mr. President, I make that a unanimous-consent request.

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

Mr. DOMENICI. Mr. President, I am not going to repeat arguments that have been made against the democratic tax proposal, the tax and spend bill, as I see it, because they have been made eloquently by the minority leader, by Senator GRAMM from Texas, by Senator SEYMOUR and others.

But I am going to repeat one thing. There is a big mistake that is being made in using statistics about who is being taxed. Those statistics fail to recognize that the preponderant taxpayers in that tax increase are small business men and women in the United States who leave their money in their businesses. They do not take it out, and they are going to have their taxes increased by 16 percent. So they are going to wake up and say, we thought we were supposed to produce jobs and we just got whacked for something like a 16-percent tax increase.

How do I know that? Because 89 percent of the \$38 billion tax increase due to raising the marginal rate brackets, according to the Treasury computers, is from small businesses and from subchapter S corporations that file taxes as individuals. It seems to me that cannot possibly be an economic growth package.

What I have done in this bill is given to all of you and the President a way to produce an economic growth package, and it is very simple. It is very simple. Take out capital gains, since it cannot pass unless there is a tax increase. That is the Democratic side position. Take it out. Take out the tax increase. Just take it out. Nobody is arguing that the tax increase and the cut in taxes for the middle class, nobody is arguing on that side that it is an economic growth package. It is a fairness issue. Take it out.

And put the other five items that the President had in his package, put them in and pay for them. That is what I did in that bill. And, frankly, you will produce about 1 million new jobs in the next 8 months; about 1 million, minimum.

You do not have to fret about the capital gains argument. Obviously it is not going to occur because the Democrats will not do it without raising taxes, the President will not sign it. Get rid of it.

Pass the \$5,000 exemption for homebuyers, pass the IRA change, pass the passive loss, pass the investment tax allowance for business men and women of America, and you have a package, and it is very easy to pay for it.

I am going to withdraw mine because it cannot pass. It is subject to a very interesting point of order, even though

I pay for it. I did not pay for it by increasing taxes, I paid for it other ways. So it is subject to a 60-vote point of order. Oh it does not have a chance.

I submit to every Senator, you look for a formula, you get Democrats to be for it, I will get the President to be for it, and you will have an economic growth package very much like this one before the American people in 10 days. Having said that, I am pleased to have Senator RUDMAN as my cosponsor. He is a stern one and pretty difficult to please. And this will work and it does not add any burden to deficit of the United States.

I thank the Senators for listening and yield back the balance of my time and withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 1732) was withdrawn.

Mr. BENTSEN. Mr. President, I might say in response that the way the Treasury figured that is quite interesting insofar as what they did on subchapter S, what they did on independent businesses, and what they did on farmers. They took just partial interest in those returns to arrive at those kinds of numbers.

Frankly, I do not agree with the numbers at all. When you are talking about a tax that happens to families making over \$175,000 a year, after all their deductions, I do not think there is reality in the Treasury's numbers.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WIRTH). Are there further amendments to the substitute? If not the vote occurs on the substitute.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, last night, Senator RIEGLE's father died. This morning he left to go to Michigan. This afternoon he called me and asked me if I would give him a live pair on vote. I intend to give Senator RIEGLE a live pair on this vote because he is in Michigan as a result of his father's death.

The PRESIDING OFFICER. The Senator from Nevada.

#### AMENDMENT NO. 1733

(Purpose: To amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1733.

Mr. REID. 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 926, after line 19, insert the following:

#### SEC. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

##### (a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) 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 water or sewerage disposal services if—

“(A) such amount is a contribution in aid of construction,

“(B) in the case of contribution of property other than 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 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 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 utility which is not required to provide water or sewerage disposal services to members of 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, any 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.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST.—

Mr. REID. Mr. President, I rise to offer an amendment to H.R. 4210. This amendment contains a badly needed reform to help boost the moribund housing industry. Adoption of my amendment will reduce the price of new homes by as much as \$2,000 per unit without costing the Treasury a penny; in fact, it may actually raise a few extra million.

My amendment is very simple. It excludes from the gross income of water and sewage utilities contributions in aid of construction made by developers to the utility. These contributions, known as CIAC, were previously excluded from gross income by section 118(b) of the Internal Revenue Code which was deleted by the Tax Reform Act of 1986.

This change has been estimated by the Joint Committee on Taxation to lose approximately \$136 million over 5 years. My amendment also includes a revenue offset concerning the reporting of seller-financed mortgages that raises \$588 million over the same time period. Thus, my amendment is not revenue neutral. It brings in additional revenues.

Mr. President, the difference between the cost of my amendment and the offset that I have offered is over \$450 million for the next 5 years. Not only do I pay for my amendment, I am offering over \$450 million that will go to deficit reduction.

Before I explain this amendment further, I believe I should explain what a CIAC is. It is a concept widely employed by utilities but not well understood by others.

Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, typically a developer. The

customer contributes his property, or a cash equivalent, to the utility. In this way, utilities can reduce their financing requirements and eliminate the need to spread additional borrowing costs, in the form of rate increases, to the general body of customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not earn, take tax depreciation or investment tax credits on CIAC.

The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. One, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 Act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. Had that been the result, I doubt very seriously that my colleagues or I would have shed anything other than crocodile tears for utilities and the deletion of section 118(b). But in practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers and home buyers.

State utility regulatory bodies, often referred to as PUC's, generally require utilities to pass tax costs on to their customers. This means utility customers must make a larger contribution in order to cover our tax costs. This is not a simple dollar-for-dollar charge. In order for a utility to be made whole, it must pay tax on the CIAC, plus a tax on the tax. This phenomenon is known as a "gross-up." Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contribution. In other words, a contribution of water mains valued at \$100,000 would cost a customer \$170,000. The State PUC directs these additional costs to be either passed-on up front to the new customer or through rates to the existing customer base.

So you can see, utilities do not pay the tax, they pass it on. But passing the tax on has detrimental effects, not only on the utilities' ability to bring in new business, but on the environment and—most significantly—on the price of new housing and housing construction.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Associa-

tion of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as \$2,000 a unit. This additional cost is enough to end the dream of home ownership for a young couple.

Even in those areas where the cost of this tax can be passed on, it is still a cost the developer must pay upfront. That can mean projects are scaled down. Where a developer was planning on constructing 100 units, maybe only 80 are built. In severe cases, it may cause a developer to scrub the project completely.

The effect of the CIAC tax is particularly severe on water and sewage utility customers because of their unique characteristics compared to electric and gas utilities. Capital costs for gas and electric utilities are lower than water and sewage, so the gross-up cost is less prohibitive. In addition, there are seldom alternatives to acquiring gas and electric service from an investor-owned utility. Investor-owned water utilities serve only 20 percent of the population, municipal water suppliers serve the balance. Remember, only investor-owned utilities pay taxes.

A developer must receive gas and electric service from the local utility. It is not economically feasible to set up an independent gas or electric supply. But there are alternatives to receiving water and sewage service from a privately owned utility. In some cases, it is cheaper for a developer to obtain water from a nearby municipality, establish an independent water system, or drill individual wells and septic tanks for each household. All of these alternatives deprive water companies of business opportunities and local, State, and the Federal Government of tax revenues.

It is also important to note that small water systems frequently pose problems for both EPA and the States. According to EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. EPA has also indicated a willingness to work with Treasury to change the CIAC tax.

The cost to repeal the CIAC for water and sewer is quite low, only \$136 million over 5 years compared to \$690 million over the same period for all utilities. My amendment pays for this without raising taxes. It requires buyers and sellers using seller-financed mortgages to report each other's Social Security numbers on their respective returns along with the amount paid or received. The IRS has estimated that on 11 percent of seller-financed mortgages, interest was not correctly reported. According to the Joint Tax Committee, full compliance with this provision will raise \$588 million over the next 5 years—not only enough to pay for my amendment, but enough to reduce this country's burgeoning defi-

cit by over \$450 million over that time period.

Some of my colleagues may still be skeptical about whether or not excluding CIAC from gross income is a good idea. After all, a payment by a customer to a utility seems like income. And income is subject to tax under our laws; therefore, why should CIAC "income" be treated differently? It should be treated differently for one simple reason. CIAC is not income. It is capital.

Utilities don't make money on this capital, only on the product sold through the capital. A water utility doesn't make money on installing water mains. It makes money when it begins selling water through the mains it has installed. If a development goes bankrupt, it could conceivably never make any money from the installation of a particular main. In addition, utility earnings are regulated by PUC's. PUC's permit utilities to earn on the sale of their products, they do not permit them to earn on CIAC.

CIAC increases the value of a company's capital, not its income. But don't take my word for it. The courts have ruled the same way. In the *Liberty Light* case (BTA, 1926), the court found that contributions are not payments for services rendered or to be rendered. Payment of CIAC does not establish a legal obligation to provide service. You pay the CIAC—then you must pay for the product conveyed via the capital asset.

Mr. President, section 118(b) of the Internal Revenue Code, exempting contributions in aid of construction from gross income, should be restored. It is a tax on capital not income. It is not a tax on utilities; it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help get the real estate market back on its feet. Not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you just don't pay the price of the house. You pay closing costs, title costs, title insurance fees, attorneys' fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as \$2,000 a unit.

Eliminating the CIAC tax won't jump start real estate on its own. But combined with a tax credit for first-time home purchases and the use of IRA savings for a down payment, it will eliminate a powerful disincentive to young home buyers.

Repeal of the CIAC tax is supported by the National Association of Home Builders, the National Association of

Water Companies, the National Association of Industrial and Office Parks, and the National Association of Regulatory Utility Commissioners.

I urge my colleagues to support this amendment and the dream of home ownership. We can also take a step toward deficit reduction to the tune of almost one-half billion dollars.

Mr. SYMMS. Mr. President, I rise in support of this amendment offered by my colleague from Nevada. Contributions in aid of construction should be exempted from gross income. This is an unfair tax on capital, not income. It stifles economic growth and leads to price increases of new homes as well as water rates. And, also, leads to the development of environmentally unsound water and sewage facilities.

Once again, Mr. President, we are trying to level the playing field between investor-owned utilities and public utilities. Only investor-owned utilities pay taxes.

When a developer contributes water mains valued at \$100,000 he is also permitted to reimburse the utility for the taxes paid on the contribution plus the tax on this tax. This can add as much as 70 percent to the customer's cost of the contribution. Thus, raising the original value of contribution from \$100,000 to \$170,000.

The State public utility commission says these costs must be passed on up front either to the new customer or through rate increases to the existing customer base. When this cost is passed on up front, a developer may have to reduce the size of a project, or abandon it completely, or pass the cost on to the new home buyers. The National Association of Home Builders has estimated the CIAC tax adds as much as \$2,000 to the price of a new home.

In order to avoid this additional cost, a developer may seek an alternative from using water and sewage service from a privately owned utility. I understand it is sometimes cheaper for a developer to set up their own utility; build individual wells or septic tanks, or hook into a municipal system. All of these alternatives deprive the investor-owned water companies of business opportunities and deprives local, State, and Federal government of tax revenues.

In addition, these alternative small water and sewage systems are less environmentally sound to build. According to the EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300.

The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Mr. President, I believe it is appropriate that this amendment is being offered to the Tax Relief Act. I hope that

my colleagues will support this amendment that will provide relief to privately owned water utilities and additional relief to the housing industry.

Mr. MITCHELL. Mr. President, has the amendment been agreed to?

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. Mr. President, there is no objection on this side.

Mr. PACKWOOD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. So, the amendment (No. 1733) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

#### AMENDMENT NO. 1734

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENSTEN] proposes an amendment numbered 1734.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

Amend section 120(e) of the Internal Revenue code of 1986 to strike "June 30, 1992" and insert in lieu thereof "December 31, 1993".

Mr. BENTSEN. Mr. President, this is an extension and amends section 120(e) of the Internal Revenue Code. That is the one extender we have not done. That has been cleared, as I understand, on the other side.

Mr. PACKWOOD. It has been cleared on this side.

Mr. BENTSEN. We have no objections.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1734) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

The majority leader.

Mr. MITCHELL. Mr. President, I yield to the distinguished chairman.

#### AMENDMENT NO. 1735

(Purpose: To amend the Caribbean Basin Economic Recovery Act to establish a center to study and support improved trade and economic relations among Western Hemisphere countries)

Mr. BENTSEN. Mr. President, I have another amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 1735.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

#### SEC. . AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

#### "SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commis-

sion'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemisphere Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than December 31, 1992.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to palling and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere' and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision

of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in many cases in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver."

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

Mr. BENTSEN. Mr. President, I rise to offer an amendment to the tax bill which establishes the Center for the Study of Western Hemispheric Trade in Texas. The center will be an academic institution to help business leaders and policymakers understand what challenges lie ahead as the United States expands its trade ties with our neighbors in this hemisphere. I am pleased this amendment, which matches my previously filed bill, S. 423, has been accepted by both sides of the aisle.

This proposal comes at a major turning point in trade relations in this hemisphere. We are already seeing how the European Common Market is emerging as a trading force and Japan is increasing its ties with its Pacific rim neighbors. The United States is now engaged in negotiations to expand the force of a trading community with Mexico and Canada. If American workers and businesses are to reap the fullest benefit from increased trade with our neighbors in this hemisphere, they'll need the useful and insightful information that the center could provide.

The Hemispheric Trade Center will serve as a clearinghouse of information, employing leading scholars of international trade and related areas of study to help analyze the prospects for expanded trade. In addition to assessing the impact of trade on the U.S. economy, the center will study monetary reform, tariff changes, demographics, political development, and the implication of these changes with regard to trade. It will also provide scholarships and fellowships to students interested in these areas.

As the primary bridge through which Latin America does business with the United States, Texas is the obvious location for the center. Not only is the 889-mile Texas-Mexico border the largest of any State, more imports from Mexico pass through Texas than any other State. In 1989, approximately half of the \$51 billion in United States-Mexican trade flowed through ports of entry in south Texas. The center will be affiliated with a Texas university or college to be selected by the U.S. International Trade Commission and the Customs Service.

My legislation authorizes \$10 million in funding, for each of the next 3 years, to help establish and run the center.

Although the initial Federal grant will help the center get started, it should be able to pay its own way within a few years through charges, businesses, scholars, and others will pay for the information it provides.

Mr. President, expanding our trade ties with our neighbors in this hemisphere promises a road to greater economic opportunities, but there are bound to be potholes along the way. The Center for the Study of Western Hemispheric Trade will help us chart a wiser and, hopefully, safer course to prosperity.

Mr. President, I want to express my gratitude to the Republican managers who have agreed to accept this amendment.

Mr. President, this has been cleared on both sides. This is my understanding.

Mr. PACKWOOD. That is correct.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1735) was agreed to.

Mr. KERRY. Mr. President, unfortunately, this is an election year tax bill, which the President has already made clear he will veto—because he is not willing to raise taxes on families earning \$175,000 or more a year to help struggling American families who earn \$30,000 to \$50,000 a year.

President Bush and his advisers have obviously read the body language of some of the most retrograde elements of his political party, people who have had a large part in getting this country into the mess it is in today. That is why the President has repudiated his own budget deal of last October and vowed to vote against any tax bill that emerges if it increases taxes on anyone—be they millionaires, multimillionaires, or billionaires.

President Bush has told reporters he will do whatever is necessary to be re-elected. The shame of it is, he is taking this approach in a year in which, more than ever, we need statesmanship and when he can least afford to be viewed as a President abdicating his responsibility on this issue.

What we see on the Senate floor is an entire political party forgetting the needs of the country to shield those earning more than \$175,000 a year from paying their fair share to help our country.

I have been reminded so many times in recent days of an article that appeared in the Atlantic Monthly 5 years ago, written by an eminent Republican and former Commerce Secretary, Pete Peterson. Back then, at the height of the Reagan era, Mr. Peterson observed that the prevailing mood of booming prosperity masked what he called the most dangerous period of future-averting choices that he had ever known.

Even then, many of us warned that we had to make choices about our future, that Ronald Reagan's plan of a

massive defense buildup and massive tax cuts for the rich was going to bankrupt our country. President Reagan denied it. George Bush denied it. The Republican majority then in control of the U.S. Senate denied it. Denied it they did, and we were powerless to stop them from implementing it. And today, we face the consequences. We have eaten our seed corn, ceded our economic leadership to Japan and to Germany, failed to educate our children, failed to train our workers, and today for many Americans, the future feels to be a gloomy one.

I remember when Tip O'Neill used to say that it was a crime that Ronald Reagan had ever become President. He said this long before we knew the dimensions of the S&L and banking disasters that President Reagan helped create—long before we knew the dimensions of the Federal budget disaster—the mismanagement at HUD, the defense contracting scandals at the Pentagon.

But Speaker O'Neill understood that there would be consequences to President Reagan's unwillingness to face reality—his unwillingness to make the choices for the future that had to be made.

We have been badly hurt as a nation by the failure to make those choices. We have lost a lot of time and a lot of money. But we can and must rebuild. We need still to invest in the productive capacity of this country in every form: Roads, bridges, highways, communications networks, new plant and equipment, research and development, worker skills, literacy, education of all forms.

Under President Reagan and President Bush, we have chosen not to make those investments. We made another choice instead, for debt. A debt that now increases at the rate of \$8,000 per second, a debt that represents about \$50,000 for every man, woman, and child in America. A debt that costs us nearly as much as national defense in the current budget—and will cost us more once defense spending is reduced.

In budgets as in life, not to choose is in fact to choose. We chose not to face the future—so now we must pay for the past.

I don't need to remind you about what that means: A dollar spent on retiring the dead weight of debt from the past is a dollar we will not return in tax cuts to working citizens, or a dollar we will not spend on education, or basic health care, or any of the critical investments for productivity that we must make. The price of noninvestment will be a continued erosion in wages, in our standard of living, in our ability to produce jobs.

It is a simple fact that for the last 12 years, as Wall Street boomed and Ronald Reagan proclaimed morning in America, real net investment in this country fell. We've simply worn out

and used up the productive capacity of this country. If you want to know we're falling behind in the world, that's why.

What frustrates me is that we know what we have to do. We've known it for years. Let me put it very simplistically: We have got to invest in all those things that create wealth in this country. That means investing in the education and training of our people as well as investing in the new technologies they must learn how to master. It means investing in plant, equipment, roads, bridges, and a thousand other factors that combine to give the American economy whatever competitive edge it will have to face the world. It means investing now.

This is the approach taken by this piece of legislation. This tax bill has three goals: tax fairness, using the Tax Code for investment, and fiscal responsibility.

Let's look at each component, piece by piece.

First, tax fairness.

It is no secret that most American families who work for a living have fallen farther and farther behind during the 1980's, swimming in an ever deepening tide of debt. This has happened because real incomes have not increased. The way to make money in the 1980's was not to work for it, but to have money to invest in the stock market or in real estate. People with that money did exceptionally well. The Tax Code reinforced the economic differences between those whose primary income was from work and those whose primary income was from investments.

In fact, from 1977 through 1992, the effective Federal tax rates increased for all Americans other than the poorest 20 percent, and the richest 1 percent. Ironically, while taxes on the poorest fell by 8 percent, and increased by 2 to 3 percent on the middle class, the wealthiest taxpayers wound up getting a whopping 18-percent tax cut in this period.

In the meantime, wages for working Americans and the poor alike decreased year after year during the past decade. Since 1977, the poorest fifth of Americans have lost 12 percent in earning power. The next fifth of Americans, have lost 10 percent. The middle fifth, have lost 8 percent. Even upper middle income taxpayers treaded water in that period, gaining just 1 percent.

Where did all the money go?

All you have to do is look at what happened to the wealthiest Americans—their incomes rose by 136-percent in after-tax income between 1977 and 1992. That's right, a 136-percent increase in after-tax income for the wealthiest 1 percent of all Americans!

No wonder that so many Americans feel overtaxed by their Government—99 percent of us are literally subsidizing the other 1 percent. That subsidization has to end. And this bill does it by

helping those who need the help most—taking money from the rich and giving it to families with children.

In his State of the Union Address, President Bush recognized this problem and recommended a middle class tax cut. Two weeks later, when he introduced his tax plan, that cut disappeared, pulverized by the President's need to placate high-dollar Republican fundraisers—the millionaires club that has so much influence in his party—and not just at the Presidential level, it appears from the opposition to this bill.

Working Americans know now that the tax changes of the 1980's worked against them. Favorable tax treatment for the wealthy was supposed to lead to a supply-side revolution that would create a more competitive America and a more secure job base. That did not happen. Meanwhile, the modest tax cuts that working Americans received were more than wiped out by Social Security. A middle class tax cut would be a small way to keep faith with working Americans—20 million of whom would benefit from this credit, which would reduce the tax bill of a family with two children by \$600 a year.

We simply must begin to provide a better floor of support under children in this country if we expect both to live with our consciences and to maintain a functioning economy in the future.

These credits for children do not increase the budget deficit. They are revenue neutral, paid for by families who earn \$175,000 a year or more. Thus, they are fiscally responsible, unlike the creative accounting in the President's plan, which according to the CBO would increase the deficit by \$27 billion over the next 5 years.

But considering the state of our economy, we cannot simply enact a middle class tax cut and call it a day. I would not support a tax bill that simply cut income tax and ignored the critical need to give incentives for new investment in plant, equipment, and education.

Over the past 2 months, a group of us, meeting under the leadership of Senator BAUCUS, have met repeatedly to hammer out a program for long-term investment and economic growth, as part of this tax bill. Last month, we met with Senator BENTSEN, who graciously listened to our thoughts that this tax bill had to address American competitiveness for the long term. He agreed that long-term investment had to be one of the central planks of this bill.

Six years ago I had the pleasure of serving with several of my colleagues on a Democratic Task Force on Competitiveness. The experience fixed in my mind the chronic weaknesses that have developed in our economy over several decades. The most dangerous weakness is in investment; net invest-

ment in this country for both public and private purposes has lagged behind the rest of the world for years. We've simply worn out and used up the productive capacity of this country.

Again, I am referring here to all the forms of investment that generate productivity: investment in plant and equipment, investment in research and development, investment in worker skills, and investment in the public facilities that make the economy function. Without this investment you do not get productivity. If you don't get productivity you do not get sustainable wages that families can live on. If you cannot support families you get what we're getting—a Nation in decline.

The implications for our way of life are staggering; for example, economists tell us that fully 75 percent of our productivity in this country since World War II has been generated from advances derived from research and development. Yet while our spending on nondefense research and development has tacked up a leisurely trend line to somewhere that is still below 2 percent of our gross domestic product, Japan and Germany have opened up a gap that puts their expenditures 50 percent higher than ours in terms of gross domestic product.

The R&D gap accounts, at least partially, for the productivity gap. In the current climate of gloom and doom we often forget that American workers are still the most productive in the world by most measures of value produced for every hour of work. But we consistently lose the race in productivity growth. While our productivity growth hovers around 1 percent, our competitors' growth outdistances us by factors of two or three. When you lose that race year after year, you lose market share, you lose competitive edge, you lose markets, you lose jobs.

I believe a new national investment strategy begins with a targeted capital gains tax cut.

My original proposal was made 2 years ago and was a direct outgrowth of my service on the Democratic Task Force on Competitiveness. My bill has now been folded into this legislation in section 2311. This will provide a significant capital gains tax cut for investment in new, smaller businesses through providing a 50 percent reduction for capital gains held at least 5 years in companies worth \$100 million or less.

This measure would help bring the cost of capital down and keep it down to a level comparable with that which Japan and Germany have offered their new enterprises for decades. The targeted capital gains cut sends a message out to both political parties and to the world, that America is serious about creating the incentives necessary to create jobs. By targeting the capital gains cut we are saying that we are not going to put tax policy at the service of

financial speculation and manipulation and the kind of nonproductive investment we've had for 12 years in this country. We are going to put tax policy at the service of people who create jobs.

As a means to increasing our national savings, this bill also restores deductible individual retirement accounts, or IRA's. Just as we must get the economy jump-started by immediately putting back to work and putting some money back in their pockets, Government needs to start helping them put some money in their bank accounts as well. The Bush administration's approach to IRA's is to raid the Treasury through allowing people who already have such accounts to spend them without penalty as a means of stimulating the economy. The smarter approach—contained in this bill—is to eliminate current restrictions on IRA's so that every working American is able to put aside tax-free savings for the long-term toward retirement. Billions in new IRA contributions will do much to provide capital for long-term investment in America's future.

We also need long-term investment in our people, and this bill does that.

There are a lot of Americans today who simply cannot afford to go to school to complete their education. Some have parents who are out of work. Others work, and their families work, but there is not enough extra money to finance post-high-school education. The Government is in a unique position to make it possible for every American to get the education they need, through lending and guarantee programs. This bill contains an innovative program, developed by Senator BRADLEY, that would for the first time reach many who today are cut off from higher education—self-reliance loans under which students would be allowed to borrow money for education and repay it through the income tax system in installments, according to their income.

These self-reliance loans represent an important collective investment in our national future. But the man who calls himself the education President, Mr. Bush, has promised to veto it. He has no alternative plan to help families educate their children. He just wants to veto ours.

President Bush, I plead with you. There are things more important than getting reelected. One of them, surely, is making it possible for American students to go to college. Please reconsider your veto so that these young people can get the education they need.

This bill also sets up several education incentive programs, that allow taxpayers to take tax credits or deductions for interest on student loans, that expands educational savings bonds provisions, and excludes employer-provided education assistance from taxable income—changes which should in-

crease access to education for millions of Americans.

This tax bill does something to help protect Americans in need of health care, too, by eliminating gaps in health insurance coverage when people change jobs, by allowing 100 percent deductibility for health care premiums for the self-employed, and by preventing businesses from canceling health care policies when someone gets sick. It is not the final solution to our health care problems—we need a comprehensive bill for that—but it is a beginning.

While addressing these real problems with real solutions, this bill does not increase the Federal deficit.

Unfortunately, one of the legacies this administration is leaving our country is a Federal budget deficit of \$400 billion for this year, almost \$4 trillion for the Federal Government in total. Every penny of that has been borrowed from the future—from our children, and from their children.

It amazes me how people can lose touch with the reality of these numbers. At current rates, we will increase the Federal debt to \$5 trillion by 1995, according to the Congressional Budget Office—\$25,000 for every man, woman and child in this country—over 25 percent of all the assets held by every American citizen, corporation, and interest in the entire United States. Within a few years, payments on the national debt will be larger than our defense budget.

President Bush has complained that "we are facing government by gridlock in Washington, with spending skyrocketing out of control \* \* \* and a budget deficit looming over our children's children. Americans are fed up," charging that "the Congress [is] spending money it doesn't have. And I think now, given the magnitude of this problem, enough is enough."

The President's statement makes one wonder which lips we are supposed to read. Our tax bill would not increase the Federal deficit by a dime. His, according to the nonpartisan CBO, would cost the Government \$27 billion in 5 years. Why does the President insist once again on spending money he does not have? Does he think the voters will not notice the wide distance between his rhetoric and his plans?

It is sad to see the administration continue to try to blame others for its mistakes. Those who preceded us in government gave the generations of the future help for education, Social Security protection for their old age, a national highway and transportation system, parks, job training, and the strongest economy and national defense in the world. By contrast, we are now finding the Reagan and Bush administrations have left as an inheritance for the next generation little more than an ocean of debt and economic decay.

This tax bill is a modest approach to redressing some of the injuries experi-

enced by working Americans as a result of past tax bills. It is a modest attempt to shift our Nation's resources back toward investing in long-term growth. It is a modest means to help middle-income Americans educate their children and get job training and some protection for health care insurance. Maybe it should do more, but that is difficult given the size of the Federal budget deficit. But the tragedy is, the President is offering Americans nothing more than the status quo.

I urge the adoption of this bill, and call on President Bush to reconsider his lipreading threat to veto it. The President and his party need not read the lips of the taxpayers of this country who are fearful about their future and who demand more from their government. You would have to be deaf and blind not to understand that they expect more than the deadend of a President governing by veto. We need leadership to get us out of this economic crisis, and leadership most of all from the President himself, which under the Constitution, George Bush, for the present, remains.

Mr. PELL. Mr. President, it is vitally important that the Congress act to help lift the economy out of the prolonged recession, to reduce unemployment, and restore prosperity. It is for this reason that I support the tax bill before the Senate.

Even as the national unemployment rate has climbed steadily upward during the past year, the jobless rate in Rhode Island has remained even higher. Bankruptcies are at record levels. Indeed nearly every measure of economic activity documents the hardship being inflicted by this long and deep recession. Action by the Congress is overdue. This economic recovery legislation, while not perfect, is needed and will help to restore economic health.

I strongly support the economic growth incentives included in the bill, including the investment tax allowance, the reduction in taxes on capital gains, the tax credit for new home purchases by first-time home buyers, the restoration of some real estate investment incentives by reforming of so-called passive loss rules, and the establishment of broad new individual retirement accounts with strong saving incentives for all Americans, and with new flexibility permitting the use of IRA funds without penalty for first-time home purchases, and for education and medical care.

Because of its impact on the boat-building and jewelry industries in Rhode Island I am particularly glad that the bill includes a repeal of the 10 percent "luxury" excise tax, a repeal which I joined in sponsoring. That excise tax played a part in the loss of thousands of boat-building jobs in Rhode Island, and the disappearance of some of our Nation's finest boat-building firms. The luxury tax never taxed

the wealthy, but imposed a heavy penalty on workers in the boat-building industry. Good riddance to the boat tax!

As I said, however, the tax bill in my view is not perfect. I would have preferred, for example, a much greater reduction in the capital gains tax rate than is provided in this bill. The capital gains tax cut in this bill is severely limited in amount and consequently will be severely limited in the boost it might give the economy. I believe a significant cut in the capital gains tax rate for all Americans, regardless of income level, would provide a major and immediate economic stimulus. I have consistently advocated such a capital gains tax rate cut. Recognizing that a capital gains tax cut provides greater direct benefits to the wealthy, I have also advocated higher income tax rates on the wealthy as a matter of fairness.

I would also have preferred a stronger incentive for investment in business equipment and machinery—perhaps a direct investment tax credit instead of the limited depreciation allowance provided in the bill.

In addition to its economic impact, this legislation makes a start toward restoring greater fairness to our tax system. It provides a modest tax cut for middle-income families with children while increasing the share of the tax burden borne by the well-off. I would have preferred a broader middle-income tax cut that would provide relief to middle-income taxpayers without limiting the relief to those which children under 15 years of age.

Mr. President, this legislation also contains certain provisions that are intended to make the purchase of health insurance more affordable to small businesses. I support Chairman BENTSEN'S intent in this regard, as it is all too clear that many small businesses have long experienced serious disadvantages in their efforts to provide health insurance to their employees. I do have some concerns about the way this is accomplished, though I applaud the chairman for this efforts to address this difficult problem.

I have other concerns with the health section of this bill, including a provision that would preempt State laws requiring coverage of certain health problems. I am also concerned about the bill's establishment of two different health plans, and therefore two different levels of health care, to be provided to employees of small businesses.

Finally, Mr. President, I want to make clear that in my view, the health care section of this bill is no substitute for comprehensive health care reform. As Chairman BENTSEN himself noted in his opening statement, the health care section is simply a first step toward comprehensive health care reform. It is my hope that the Senate will consider comprehensive reform legislation this

year, and will not feel content to rest should this legislation become law.

I hope that some of these defects will be removed and that the legislation generally will be improved during the conference with the House of Representatives.

Overall, however, the bill is a good one and one which I can and will support.

#### A FLAWED AND PARTISAN TAX BILL

Mr. HOLLINGS. Mr. President, I intend to vote against the Finance Committee's tax bill. Like the President's own antirecession plan, this bill is essentially a partisan, election year document. It has little to do with economic stimulus and everything to do with political stimulus. And, for that reason, it is destined for a veto—a veto that will be sustained. It is shameful for the White House and Congress to be indulging in this kind of partisan gamesmanship at a time when the American people are starving for economic leadership.

Mr. President, I also have a number of objections to specific elements of this bill. For starters, there is the inevitable smoke and mirrors. The bill seizes on the \$3 billion in new revenue that is supposed to be earmarked for unemployment insurance, and it uses that \$3 billion to finance other items in the bill. In addition, the bill admittedly adds to the deficit for the next 4 years; it is the same old story of play now, pay later, and, of course, later never comes.

In short, the Finance Committee's use of revenues is every bit as disingenuous as the President's outrageous gimmickry of accrual accounting. How many times are they going to spend and respend that \$3 billion in new revenue that is supposed to cover unemployment claims? Both plans are chock-a-block with gimmickry and both of them add significantly to the deficit.

Beyond these general criticisms, I would point out that the bill's change in the current depreciation recapture rules would significantly increase the tax burden for most real estate transactions. By the Treasury Department's estimates, this provision would raise taxes on real estate by an additional \$5.4 billion. It is outrageous that this proposal would be considered at a time when the real estate industry is already in severe recession.

The bill includes a tax credit for first-time home buyers that is only applicable to new houses. This is yet another example of a smoke-and-mirrors approach to tax reform. Bear in mind that 75 percent of first-time home buyers purchase existing houses. If you are truly interested in economic stimulus, it makes no sense to have a tax credit for first-time home buyers that is not applicable to existing structures.

Yet another weakness in the bill is that it doesn't go far enough in regard

to passive loss restrictions. Both the President's proposal and the provisions in this bill are simply too restrictive. I support 100 percent repeal of passive loss restrictions and a return to pre-1986 law. The fact is that the passive loss restriction has been a key culprit in the decline of real estate prices and the weakening of the S&L industry. The losses we are witnessing today in the real estate industry are active losses, not passive losses. Accordingly, we need an active Government response, not the current passive resignation.

Mr. President, this Finance Committee bill does precious little to encourage long-term investment and savings, and several elements in the bill actually discourage investment and savings. In extraordinary testimony last week, Federal Reserve Board Chairman Alan Greenspan advised Congress to reject both the President's plan and the Democratic alternative. He argues that, given the obvious flaws in both alternatives, the best plan is no plan at all. I disagree.

There are significant and constructive things we can do to stimulate investment and job creation. Indeed, there are many good ideas in the Finance Committee's bill as well as in the President's plan. Better yet, once you cut through the political posturing, there is a striking agreement among Democrats and Republicans over what should be done: on capital gains, on encouraging private investment and boosting public-sector investment.

Given this essential agreement, why are we acting so disagreeable. After the veto of this bill is sustained, we need to cut out the election-year cat fight and move a credible, meaningful plan through Congress this spring.

My own druthers are for a 1-year package that cuts spending by \$24 billion, and redirects that \$24 billion to finance investment-oriented programs and tax incentives. I talked at length about my plan earlier this week, and I welcome the cosponsorship of Senators BOND, D'AMATO, EXON, and HEFLIN. This alternative plan can serve as the nucleus of a genuinely bipartisan plan to get the economy moving again. If we are going to demonstrate that Government can work together to deal with this recession, we must first rediscover the old truth that often the best politics is no politics.

Mr. NUNN. Mr. President, I will vote for the Bentsen bill on final passage. As is true with most tax packages, this is far from a perfect package. It will not end unemployment overnight, nor will it immediately right our economy. However, it does have positive features which will help us on both counts, including:

First, revisions in capital gains which would provide some measure of relief from current law;

Second, the Bumpers capital gains legislation which targets long-term investment in small businesses;

Third, new savings incentives provided in the individual retirement account measures;

Fourth, investment incentive provided by the investment tax credit and other provisions;

Fifth, a tax credit for first-time home buyers;

Sixth, provides partial relief to real estate developers through the relaxation of current passive loss rules;

Seventh, changes in current law to provide badly needed tax relief for middle-class families with children; and

Eighth, deficit neutrality over the next 5 years.

I believe that this last point is very important in light of the proposal President Bush requested that we act on before March 20. The seven-point package he submitted, plus the provision added by the Senate Republican leadership, would have raised the deficit by at least \$24 billion over a 5-year period. This lack of fiscal discipline on the part of the President sets a poor precedent for maintaining fiscal discipline in the remainder of this session, for example when we consider the proposal to tear down the walls between the domestic discretionary and defense spending accounts.

The gigantic omission in the President's proposal, as well as the House bill and the Bentsen package, is the total failure to deal with the long-term problem of the Federal deficit. Of course, a recessionary period with high unemployment is not the time to dramatically cut spending or raise taxes. This is however the time to take concrete legislative steps to address the deficit in the out years by curbing the rampant growth in entitlement programs which are dooming to perpetual deficit spending.

Mr. President, there are two pressing problems our country faces—two factors that, unless corrected, are likely to condemn us to minuscule economic growth, continued loss of competitiveness in world markets and markets here at home, and a stagnating or declining standard of living for most Americans. These two factors are, first, our wholly inadequate rate of savings and investment in America's productive business enterprises—the chief mechanism for increasing both economic growth and growth in productivity—and, second, our out-of-control Federal deficit, that absorbs much of what Americans do save, and that increasingly acts as a drag on our economy. None of the tax packages before Congress aim to reduce the deficit, either now or later.

I am hopeful that this body will get serious about the deficit and about savings and investment this year, even though it is an election year. This country is in dire straits, and the re-

sponsibility for this state of affairs is widely shared. The national debt was still measured in billions back in 1980; it was a bit over \$900 billion. That means it took this Nation over two centuries to pile up the first trillion dollars of debt. It has taken less than a dozen years for us to more than triple that. By the end of this fiscal year, the national debt will stand at nearly \$4 trillion.

We have to pay interest on this debt every year—the bigger the debt the more we have to set aside in the Federal budget for interest on the debt, and the less we can spend on programs. The estimate for this item for next year is some \$220 billion. Within 3 years, on current projections, interest on the debt, which is headed up, will pass defense spending, which is headed down.

Mr. President, the effects of the continuing deficits are felt far beyond the amount of interest we pay. Our huge debt soaks up the equivalent of two-thirds of all savings by American businesses and citizens. The Federal deficit competes for funds with American businessmen, restricting their ability to modernize plants and equipment. The Federal deficit keeps interest rates higher than they would otherwise be. The Federal deficit forces us to borrow from abroad—we have gone from the world's biggest creditor nation a scant decade ago to the world's biggest debtor nation. Our dependence on borrowing from foreigners restricts both our leadership status and our freedom of independence.

Let me offer a couple of examples. In 1990, according to a recent report in the New York Times, February 25, 1992, American business invested \$524 billion in new plants and equipment, to improve their productivity. But Japanese firms invested \$586 billion in their factories and production lines—\$62 billion more invested by the Japanese than we did, although our gross national product [GNP] is nearly 50 percent larger than Japan's.

Mr. President, is it any wonder that U.S. productivity growth has averaged less than 1 percent a year since the 1970's while Japanese productivity has grown more than three times as rapidly? Should it come as a surprise that the Japanese economy has averaged nearly 5 percent a year growth, while ours has had trouble averaging only 2 percent?

We must implement some major changes here at home, if we are to regain our economic competitiveness and increase our standard of living. We need to save more and spend less on consumption. We need to get the Federal deficit under control. To do this, we must recognize, accept, and have the political courage to tell the American people what must be done. There will have to be sacrifices, because we cannot continue our profligate ways, as

a nation or as individuals and families. Indeed, families, individuals, and businesses have all begun to recognize this, and to react. Both businesses and individuals are cutting back on their indebtedness, which grew sharply during the 1980's. Only the Federal Government seems to be indifferent to the need for change.

How do we begin to get the deficit under control? It's not very complicated, just very hard politically. We will have to begin to control the rampant growth in entitlement programs. Health care alone consumes 13 percent of our GNP—about twice the share of other industrialized countries, and it could reach 20 percent by the turn of the century. We will have to limit discretionary spending. Since we all recognize that there are significant unmet domestic needs that will require new or expanded programs, discretionary spending on lesser priority programs will have to be curtailed or terminated. Defense spending can be cut, and will be cut substantially. But we must do it without repeating the dramatic weakening of our forces which we have done after every war in this century. I believe we will end up with smaller and less costly forces than those that DOD now projects for its so-called base force—but we cannot get there next year, or in 2 years.

We will also need to increase revenues, since it is almost impossible to eliminate the deficit through reductions in entitlements and discretionary spending alone. But before we ask the American people to pay higher taxes, we must clearly and decisively demonstrate that we can discipline ourselves and make very substantial cuts in Federal spending.

Mr. President, these are the simple facts. There's no silver bullet, no magic key to making the deficit disappear. Sacrifices will be required. But we must do this, we must accept the need for some sacrifices, if we are to restore productivity, economic growth, and an increasing standard of living. As we grapple with options for spending cuts and revenue increases, I believe we need to implement a number of provisions that have been included in the various packages put before this body.

We also need to pursue options to promote growth. Although the capital gains provisions in the Bentsen package are a step in the right direction, I think we need broader tax relief on capital gains, either by indexing for inflation or by establishing reduced rates for qualifying gains from savings and investment held for a significant period of time, and encouraging productive reinvestment. I would also strongly favor additional provisions encouraging savings and investment in new plants and equipment, new production processes, and other facilities for making manufactured goods.

There are those who will assail this as too probusiness. But if American

business can't compete effectively in the sale of products we make either abroad or at home, then we will end up exporting jobs—good jobs, manufacturing jobs—at the same time we buy our imported goods. Mr. President, we have no choice but to compete.

#### HISTORIC REHABILITATION TAX CREDIT

Mr. FOWLER. Mr. President, I rise today to discuss an important issue which, unfortunately, has not been addressed in the Senate Finance Committee tax bill: the historic rehabilitation tax credit. Action is desperately needed to revitalize and reinvigorate the successful incentive that has an admirable track record in reversing the serious problem of disinvestment in our Nation's aging cities and historic neighborhoods.

Congress has recognized since 1976 that the rehab of old and historic buildings needs tax preference if they are to compete with new construction in the marketplace. Congressional intent was to use the credit as a tool to attract investment to areas and projects which were highly desirable but unlikely to attract capital on their own because of the high risk, high cost, and low projected rate of return.

The historic rehab credit was a tremendous success nationally. The National Park Service reports that between 1976 and 1986, more than 16,000 buildings were rehabilitated as a result of the credits. This represents a private investment of more than \$11 billion in quality, historically appropriate certified rehab. In addition, the Park Service found that, since 1981, 119,785 housing units have been created including 21,600 low and moderate income units.

Unfortunately, the 1986 tax reform passive loss rules have eliminated entirely any benefit from the credit and the Park Service reports that the number of historic rehab projects has declined by 80 percent to pre-1981 levels. The passive loss rules were intended to prevent individual taxpayers from using losses from certain activities to shelter income from wages, salaries, and other investment income. The passive loss rules also restricted the use of the rehab credit despite a limited exception to those rules in the 1986 act.

Clearly, the limited exception has not worked. The rehabilitation tax credit needs further relief from the passive loss rules. The time is right and while the passive loss rules have been amended for other real estate participants in this bill, other changes are needed to restore the vitality of the Historic Rehab Program.

My colleagues on the Senate Finance Committee, Senators BOREN, DANFORTH, and PRYOR have joined with me in urging that changes in the historic rehab credits be included in this bill. Regrettably, these changes were not included and I would offer an amendment today if I thought the process

would allow it. Considering the constraints we are under, I instead rise to urge the Senate Finance Committee to give serious consideration to the historic rehab credit passive loss rule amendment in the next tax bill they consider. Let us not lose another opportunity to fix the historic rehab credit once and for all.

#### COAL RETIREE HEALTH BENEFITS

Mr. ROBB. Mr. President, the tax package pending before the Senate today contains a provision to ensure the continued solvency of two important trust funds that provide critical health care benefits to nearly 9,000 retired miners, spouses and dependents in the Commonwealth of Virginia. This issue was discussed at some length last night on the floor of the Senate. I wholeheartedly support the future viability of these trust funds and I am absolutely and unequivocally committed to ensuring their long-term financial strength and stability.

Having said that, Mr. President, I do have serious concerns about the specific financing mechanisms contained in the bill before us, which I believe are riddled with inequities. These inequities place a greater economic burden on my own State of Virginia and some other Eastern States than on most of the rest of the coal producing States affected by this legislation.

This bill's solution to the health benefits problem creates a whole set of new problems for my State, problems that, with a fair hand and with serious and thoughtful discussion, I believe can be resolved. The bottom line is this: We have a responsibility to our retired miners and their families to create a truly lasting solution to this problem. The way to do that is to preserve the viability of the trust funds and protect the health care benefits provided by them without wreaking disparate economic havoc on any one or two or five States.

Let me spend just a moment touching briefly on some of the inequities to which I have referred. Specifically, provisions in the bill before us create a new Coal Industry Retiree Health Benefit Corporation sponsored by the Federal Government and financed by a 25-cent-per-ton tax on imports and an hourly domestic production tax based principally on geography. Bituminous coal produced west of the Mississippi is taxed at 15 cents per hour worked, while bituminous coal produced east of the Mississippi is taxed at 99 cents an hour.

Subbituminous coal—located in the West—and lignite coal—the majority is found in Texas—are exempted altogether. To add to this regional disparity, the bill gives the Corporation, not the Congress, authority to raise any additional revenues needed through an increase in the 99-cent tax on Eastern coal and the 25-cent tax on imports only; Western coal is exempt from any future increases.

This means, Mr. President, that affiliates of signatories of the Bituminous Coal Operators Association [BCOA] located in Western States pay 15 cents per hour worked while independent operators in Virginia and other Eastern States with no current or historical BCOA affiliation pay nearly six times that much, with the clear possibility of future increases. I know that others share my confusion over the public policy rationale for the application of this tax.

In addition, while all bituminous coal companies contribute to the corporation, however unequally, only current BCOA orphans are eligible for immediate benefits. I have real questions in my mind about the equity of not extending coverage to current orphan miners with no BCOA affiliation, while taxing the independents for BCOA orphans.

Now, Mr. President, I want to touch briefly on just why this bill is particularly damaging to the Commonwealth of Virginia. Since my State has nearly 9,000 beneficiaries in the trust funds, you can imagine that our coal industry is a large one and that it is extremely important to the Commonwealth's economic strength and stability.

In 1990, the industry directly employed 10,265 Virginians and produced 46.5 million tons of coal, making the Commonwealth the seventh largest coal producing State in the Nation. Furthermore, these jobs and the tax base provided by the industry are concentrated in seven southwest Virginia counties, greatly increasing the significance of the coal industry to these local rural economies, which have suffered significant and persistent unemployment and the lingering effects of a recent, bitter strike.

Without question, a large tax increase on Virginia's coal would negatively impact our strong export capacity and the economic vitality of our ports at Hampton Roads. Currently, the Commonwealth exports 38 percent of its coal into a tight, highly competitive international market. And, Virginia coal represents 32 percent of all of the coal exported through the ports of Hampton Roads. The ripple effects of an inequitable tax will affect not only the coal communities and our ports, but our railroads and utilities, as well.

The negative impact of this legislation on the exports of other Eastern States will compound the effect on our ports, which transship more coal than any other port in the United States today. The ports of Hampton Roads handle more than half of all U.S. coal exports. And in 1990, coal exports represented staggering 78 percent of the total commerce at the ports.

Two days ago, when bus loads of retired miners traveled from southwest Virginia to Washington to ask for my assistance in protecting their health care benefits, I reaffirmed my un-

equivocal commitment to rescuing the trust funds. No one, Mr. President, absolutely no one, could talk with these retired miners, listen to their very personal accounts of the need for their health care for themselves and their families, and not realize how important and compelling it is to solve this critical problem.

At the same time, Mr. President, I told the retired Virginia miners who visited my office that I have a responsibility to their children and grandchildren, as well. They know all too well that jobs in the coal fields are precious commodities. As a U.S. Senator from Virginia, I have to work to protect these jobs for the next generation of young Virginians whenever I can.

And I do believe we can find a way to protect both of the trust funds and to correct the regional disparities contained in the current legislation. In several recent discussions, the sponsor of this provision, Senator ROCKEFELLER, has committed himself to working with many of us to develop a more equitable solution to this problem that is, indeed, fair to Virginia and other Eastern States. I look forward to joining my colleague from West Virginia in crafting this important consensus.

My commitment to the thousands of retired miners and their families in Virginia who are affected by this legislation is unwavering, as is my strong belief that their promise of lifetime health benefits must—and will—be honored. It is the obligation of this Congress to ensure the future solvency of these trust funds, and I am absolutely dedicated to that final goal.

Mr. LIEBERMAN. Mr. President, I rise in support of H.R. 4210. This legislation addresses some of the fundamental needs of America's struggling economy: investment in education; tax incentives for American business; and a middle class tax cut to bring some equity back to the Tax Code.

Education is vital to our Nation's future. Without an educated work force, we cannot hope to keep up in a highly competitive global economy. H.R. 4210 has a number of provisions that will make it easier for students to gain the skills and knowledge they will need to compete.

I am particularly pleased this bill contain a Self-Reliance Scholarship Program based on legislation I have co-sponsored. Parents and students are desperately searching for ways to make college more affordable. These loans will offer a new source of funds to pay for higher education, in exchange for a commitment by recipients to pay back the loans as a percentage of their incomes through the IRS. This would virtually eliminate any default problem connected with existing student loan programs, therefore, freeing up more money to enable students to get an education.

Since the repayment schedule is based on the percentage of income earned, students will also be freer to choose careers in public service, such as teaching. They will simply pay their loans back at a lower rate, and over a longer period of time, than those earning more money.

Most important, this Self-Reliance Scholarship Program will be open to anyone, regardless of income level. This makes college more affordable for many more middle income families—people who may make slightly more than the limits of existing loan and grant programs, but not nearly enough to pay the cost of higher education themselves.

Under this proposal, the Federal Government will provide funds for self-reliance loans to 500 schools across the Nation. The schools would award the loans to students requesting them. These loans are not intended as a replacement to the Guaranteed Student Loan Program, only as a supplement. But any student, regardless of family income, could borrow up to \$5,000 as an undergraduate and \$15,000 as a graduate student each year.

Our goal is clear: by helping students get necessary funding for higher education, we are investing in our Nation's future.

There are a number of other worthwhile provisions in the bill that will help improve access to education. This includes a choice of credit or deduction for interest on student loans, tax-exempt youth training organizations, employer-provided educational assistance, penalty-free withdrawals for higher education, and educational savings bonds.

As important as these provisions are, we must do more to improve our competitiveness. We need to take decisive action to stimulate economic growth. Our Nation is suffering from a deep recession, and parts of the Nation, like my home State of Connecticut, are experiencing their worst economic slump since the depression.

During the last 3 years, real GNP has grown at an annual rate of 0.5 percent, which is the worst rate since World War II. During that same period, GNP per capita has fallen at an annual rate of 0.6 percent, which is also the worst rate since the end of the war. Disposable income has increased at a rate of only 0.4 percent annually, the slowest it has been in over four decades.

Our savings rate as a percentage of disposable income has averaged a paltry 4.5 percent, the lowest in the post war period. Our overall rate of savings is one-third that of Japan. And without an increase in our savings rate, there will not be enough capital available to get the economy moving again.

Our housing industry is also suffering more than any time since the 1960's, when the Government began collecting data on the industry. During the past 3

years, housing starts have only averaged 1.2 million units per year, the worst for any period in the last three decades. Residential construction has fallen at an annual rate of 8.59 percent and real nonresidential construction has fallen at an annual rate of 7.53 percent, also the worst rates since the data was first collected.

If anyone believes that a recovery is on the way, I say let them come to Connecticut. My State is being hit hard by a housing slump, a credit crunch, and defense cuts which disproportionately affect State defense contractors. The Connecticut Department of Labor estimates that the State's unemployment numbers have been underestimated by as much as 30 percent. The real unemployment rate in the State is 7.5 percent, higher than the national average.

This legislation begins to address these and other related issues by putting in place programs that will help to stimulate short and long-term economic growth. This is achieved in several important ways. The bill would increase our pool of savings by making IRA's available for all Americans. It also eliminates penalties on withdrawals for the purchase of a first home, cost college education, and major medical expenses. These steps will make IRA's an even more attractive savings vehicles, further encouraging Americans to save.

But our problems go beyond our anemic savings rate. While there have been indications that venture capital funds may be on the upswing, we have lost a lot of ground over the past few years. According to *Venture Capital Journal*, venture investments are at their lowest level in a decade. Fund levels dropped by 40 percent between 1989 and 1990. This bill contains a targeted capital gains tax cut for small firms, which will help to fund new high-tech firms that are so important to our economic growth. The bill also contains a special accelerated depreciation allowance and an extension of the research and experimentation tax credit. Both of these provisions should help to make industry more competitive. Although I think we could have gone further in offering incentives to industry to promote job creation, I believe these provisions are, overall, positive first steps toward getting our economy moving again.

The bill also helps to stimulate a slumping housing industry by putting in place a tax credit for first time homebuyers, relaxing current law passive loss rules for real estate professionals, and extending the law providing tax credits for certain low income rental housing and mortgage revenue bonds. The bill by no means addresses all of the concerns of the real estate and housing industry, but it is my hope the some of issues of importance to the real estate and housing industry will

be given a second look in conference. We must do what we can to assist the housing industry, since it is this industry that has traditionally led us out of past recessions.

This bill also begins to address the inequities found in our Tax Code. It is the middle class that has suffered disproportionately. They have seen their real income decline over the past several decades, while their tax burden has continued to rise. Only those families making \$120,000 or more have experienced a substantial increase in real income over this time period and their tax burden has actually decreased. The children's tax credit provision of this bill is the first step toward restoring fairness and equity to the average working family in America.

By providing a \$300 tax credit for children of families earning less than \$50,000 and phasing the credit out for families earning up to \$70,000, we are recognizing the enormous financial pressures middle class families are experiencing. The costs of feeding, clothing and housing our children has risen dramatically over the past two decades, taking up a much greater percent of take-home pay. Many families now need two wage earners in order to provide the basic necessities. Quality childcare is also costly, and families must worry both about caring for their children now and saving for the future and their college education.

I am pleased that this legislation provides this much needed assistance for America's working families. Families around the country and certainly in Connecticut have been suffering and the current economic crises has only made that suffering worse. We must provide these families with help and I am pleased that this bill begins to address the tax inequities they have been subject to over the past decade.

Investing in education, stimulating the economy, and bringing back fairness to the Tax Code must be our priorities this year and into the future. We have neglected our Nation's economic health for too long. America is at a crossroads. The cold war is over, signaling the end of an era. We must now chart a new course that will help us to remain as the most important economic force in an increasingly competitive global economy. This bill is an important part of the process of getting our economy moving. It does not provide all the answers. But it is a good start. Chairman BENTSEN and his staff are to be commended for their excellent work.

#### THE SECOND WORST TAX BILL THIS YEAR

Mr. WALLOP. Mr. President, the Senate has been debating one of the worst tax bills produced by this Congress. It is not the worst—the bill recently passed by the House of Representatives has that honor. To begin to understand how bad this bill is, let's be honest in admitting that this legis-

lation, this debate is not about economic growth. We all know that we are engaged in pure politics. But it does provide an opportunity to define where people stand on tax increases, on budgets and deficits.

Other Senators have demonstrated that the higher tax rates will not be an incentive for economic growth. In fact, since 65 percent of the tax burden will fall on small business, the bill is a burden on job creation and economic wealth. That crucial point, uncovered by my colleague from New Mexico [Mr. DOMENICI] should stop this bill dead in its track—if we were truly serious about job creation. Most new jobs are generated by small business. My State's economy is dependent on small business. Wyoming has more per capita than any other State in the Nation. Yet, this bill would create new tax burdens for the small business community just as they are struggling out of a recession.

How does this bill reward those who take risks, who are willing to invest and work for a growth economy? There is a perverted version of the reduction in capital gains taxes, and inadequate changes in the alternative minimum tax. But, the obstacles and disincentives in our Tax Code still remain—vigorously debilitating to economic activity.

The bill drafted by the Democrats is further flawed in that it attempts the impossible. It seeks to ignite an economy through a quick tax fix. Yet, the economy is already growing. Even the Congressional Budget Office agrees that the recession is ending and the economy will grow at a rate of 3 percent over the next year. This tax bill will do nothing to stimulate or sustain the recovery. In fact, I am worried that this attempt to increase taxes may harm the long-term economic recovery.

This tax bill has a companion piece being produced by the Senate Budget Committee. This is the no-growth twin pack. The tax package would ensure that investment activity would continue to be heavily taxed. And, the budget package will break down the firewalls, the slight restraint we now have on increasing Federal deficit spending. This package will continue the congressional disruption of the economy which began with the 1986 tax increase and continued with the 1990 budget agreement.

Over the past 2 days, speakers have criticized the growth in the Federal debt over the past 12 years. In seeking a culprit, they fall back on the 1981 Reagan tax cuts. This is the sole real tax cut of the past decade, which encouraged one of the longest periods of economic growth in our history. Every tax bill passed since that 1981 legislation provided greater and greater tax increases. In fact, it became automatic that whenever we did a tax bill, we

would have to describe it as the largest tax increase in our history.

During the Reagan years, tax revenues were actually higher than the post-World War II average. Revenues were \$140 billion higher than if the tax burden had reflected the historic average. So, revenues were more than adequate to accommodate normal Federal spending.

The same critics claim that Federal spending was excessive due to the defense buildup. Yet, the fact is that defense spending increased in real terms from 1980 to 1984. Since then, the Defense budget has declined in real terms. This year, with everyone looking for the mythical "peace dividend," the defense budget will decline in real and nominal terms. The \$4 trillion deficit was not created by defense spending.

Since 1981, Congress has aggressively avoided cutting Federal spending. Entitlement spending, the biggest area of the budget, has grown relentlessly. Though 80 percent of entitlement spending is not based on need, little effort has been expended by Congress in curtailing this spending. Domestic discretionary spending has also increased. The popular myth is that we have cut domestic spending. The reality is that we have temporarily slowed the increases. One, and only one fact intrudes on fantasy: Congress has refused to curtail Federal spending.

The real reason we have a \$4 trillion deficit cannot be evaded by pretty political slogans, Congress, Congress, politics, politics. Oh sweet reason tell me about the decade of greed. It was the politics of reelection greed—not that of ordinary Americans who strove to improve their family's lot.

We know, especially the Finance Committee, knows that our budget situation will only become worse in coming years. There is no peace dividend to fund new Federal domestic spending. Defense spending has been curtailed since 1985. By 1996, the Defense budget will have declined by 26 percent. Domestic spending, on the other hand, is poised for another burst. Entitlement spending will increase by 33 percent by 1996 and discretionary spending will increase by 8 percent. And, it is obvious that it will be funded by new taxes and new deficit spending. Why is that American greed? Come on Congress. Come on Senate. It's reelection greed purely, simply, and it is paid for by placing a load of guilt on hard-working Americans.

Just look America! Your Democratic party proposes that, despite the tax increase, this package increases the deficit!! It increases each year through 1995, by at least \$2 billion this year and similar amounts each year after. The economic incentives are not only inadequate, but devious and temporary. The investment tax allowance would run only through the end of the year, not even time enough for the IRS to

draw the rules. And tax credits for research and development only last until after the next congressional election. Rather than this meager short term fix, we ought to institute long range investment growth incentives to promote economic growth over the long term. Do they—of course not. This is produced by the Democrats and they seem to dislike both growth and promise.

The supposed middle class tax-cut amounts to a maximum credit of \$1 per day. It only lasts 2 years. The bill proponents are doing a sleight-of-hand trick to shift the tax burden and to make it even more complicated.

The bill's focus on supposed "middle income" tax relief comes at the expense of economic growth. This is because the package would have the perverse effect of encouraging upper-income individuals to cut down on worthwhile, productive activities. How? By ratcheting up the tax penalty imposed on them. Although they would directly bear the higher tax liability, the fall off in production and growth would be felt throughout the economy. For many taxpayers, the \$300 child tax credit has a phase out that results in an increase in marginal tax rates for those outside the targeted income levels. How in the world does this improve savings and investment by middle-class families?

And to pay for these credits and other revenue-losing provisions, this bill would increase the top tax rate from 31 to 36 percent and would charge a 10-percent surtax on millionaires, punishing those members of our society whose capital has created investment, growth, and jobs.

The bill's proponents claim that this burden shifting is done in the name of tax fairness. Who can be against fairness? So let's look at who is carrying the tax burden and whether it is fair.

In the Congressional Budget Office's report on tax revenues from 1980 to 1990, we find something interesting. In 1980, the top 1 percent of income earners paid 18.2 percent of taxes. In 1990, they paid 25.4 percent—that's an increase of 40 percent. For lower income individuals, in 1980, the bottom 40 percent of income earners paid 3.6 percent of the tax burden. By 1990 that figure was down to 2.4 percent—a decrease of 33 percent. In short, the CBO report says that in the 1980's, the poor paid less taxes, the rich paid more.

By 1990, the top 10 percent were paying well more than half of all the income taxes collected by the IRS. As William Rusher put in the Washington Times, "Ten percent of American families pay more than half of all the defense expenditures, more than half of all welfare costs, more than half of our enormous debt service." Is it so unfair to ask the other 90 percent of us to pay the remaining 44 percent?

The capital gains tax cuts have all kinds of conditions, complications, and

fences as to when one can and cannot benefit from a lower tax rate. Decisions about when to sell an asset should be regulated by the market and by individual needs, not Congress. Additionally, the capital gains provisions deliberately offer the least relief for people now paying the highest rates. In fact, taxpayers subject to the proposed new top rate would obtain no benefit from the proposed capital against tax reduction. Once again, the Wallop-Delay tax bill has a better answer, a simple rate reduction with no gimmicks.

Nothing in this bill was done to change the alternative minimum tax, created in 1986, treatment of percentage depletion allowances, and very little with regard to intangible drilling costs. Under the AMT, the major expenses that the independent producer incurs are penalized by this tax, resulting in fewer industry investments and discouraging domestic energy development. Such development would be a major factor in reducing our trade deficit.

This tax treatment has devastated independent producers, the backbone of our domestic industry—reducing our energy security and making us more dependent on foreign sources; 300,000 jobs have been lost in this industry since 1986. If the alternative minimum tax is not repealed, we should at least remove percentage depletion from the calculation.

Despite Congress' inability to act, the leading economic indicators, which are used to measure the state of the economy, are now improving. This means the trough of the recession has been passed, and the economy is in recovery.

The CBO has joined with other analysts in arguing that fiscal policy—tax policy—will have little immediate impact on the economic recovery. The recovery will occur whether or not we have a tax package this year. While a tax proposal will do little to push economic recovery, new tax incentives are necessary to sustain long-term economic growth. Tax reforms should focus on three objectives: Tax simplification, investment incentives, and reducing the tax burden on working Americans.

Poor America. Democratic politicians are at work with your money, or your neighbor's money, or the fellow behind the trees money to buy your vote—and promise never, never to reduce your deficit.

Mr. DECONCINI. Mr. President, I will vote for final passage of the tax bill. I will do this not because I think this is a perfect bill, or even a great bill, or perhaps even a good bill. But it is not a bad bill, and that is a big improvement over President Bush's proposal.

While this bill does not reduce the deficit as the amendments I supported sought; it also does not contribute to the deficit as the Republican alter-

native did. I had thought we had gotten away from the days of smoke and mirror accounting, but sadly those days have returned. The Republican proposal would have increased the Federal Deficit by \$24 billion. We simply cannot afford this. I will not mortgage the future of America's children and grandchildren by further raising their debt responsibilities.

During earlier consideration of this bill, I cosponsored and supported Senator LEVIN's amendment which would have used the tax increase on the wealthiest 1 percent of taxpayers for deficit reduction and job creation. I am sorry that this amendment did not pass. Had it I could have been more enthusiastic about final passage.

Nonetheless, there is much that is good about this bill. First, it raises taxes only on the wealthiest 1 percent of all taxpayers. In order to fall into this category, a couple would need to have yearly income in excess of \$225,000. These are the same individuals who have seen their family income rise by 113 percent over the last 15 years and their tax rate drop by over 17 percent. It is right and it is fair that these individuals be asked to contribute to this economy and I believe that many, if not most, of these individuals are willing to pay additional taxes.

There are many provisions in this tax bill that will help the American economy, will help middle-income taxpayers, and will help move this country forward. The bill provides preferential capital gains treatment, a proposal I have long supported. It provides some relief in the area of passive losses, a long overdue move. For first-time home buyers we have a generous \$5,000 tax credit for purchase of new homes—an imperfect proposal but nonetheless one that moves us in the right direction and will create jobs.

Encouraging savings has been a consistent goal of mine in the U.S. Senate. In the early 1980's, I was a leader in implementing all savers certificates. I have consistently supported individual retirement accounts [IRA's] for all Americans. And last fall I introduced legislation that would have allowed up to \$5,000 of tax-free interest. This bill does provide important savings incentives. It creates a new special IRA, which allows individuals to contribute up to \$2,000 to the account but all interest earned on it will be tax free if it remains in these accounts and all interest earned would be tax free if held for 5 years. Additionally, the bill permits withdrawals from traditional IRA's without penalty for first-time home buyers, higher education expenses, and medical expenses.

During floor debate, I was successful in adding an amendment to the bill which allows unemployed individuals to withdraw from their IRA's and other qualified pension plans without penalty. Being unemployed is difficult, it

is disheartening and it is discouraging. I believe that to add insult to injury by penalizing people for using their pension savings during such difficult times is wrong and the Senate agreed with me.

Also included in their bill are the extension of important provisions which I have supported including targeted jobs tax credits, mortgage revenue bonds, low income housing, research and experimentation tax credits, industrial development bonds, solar energy tax credits, and several others. These provisions are scheduled to expire on June 30 of this year if we don't act to extend them.

No, Mr. President, this is not a perfect bill. It is not the bill I would have written. But in our democracy compromise is necessary. This compromise is important because it will help the economy, it will help middle-income taxpayers and it will not further compromise our future by increasing the deficit.

Mr. SIMPSON. Mr. President, I rise in opposition to the tax bill which is pending before us.

Mr. President, this has been a particularly unusual and instructive political year. All of us in public service are used to a familiar pattern during election years—howls of discontent from unhappy elements off the body politic, followed nonetheless by a prompt and efficient return of the incumbents to office.

I do not think I am alone in sensing that this year is different. The American electorate is more than restless; they are dead serious about wanting real solutions, real answers. They are dead serious about wanting to be told the truth. They have had it with candidates and Congresses that promise them the world.

Every Presidential primary that passes hammers home that message. It is true regardless of where you are on the political spectrum. In a typical election year the candidacies of Paul Tsongas and Jerry Brown would have been extinguished long before now. One of them is running against the system itself. The other is putting the economic challenges before us in the harshest light—and, I might add, supporting many of the progrowth measures which the President has asked this Congress to pass. On the Republican side Pat Buchanan is surviving solely on a message of harsh discontent.

I mention the political environment because it is directly relevant to this particular tax debate. The bill before us takes no notice of the firmly expressed desire of the American people for responsible, progrowth, deficit-reducing tax legislation. Certainly there is much in this bill that is in the general category of things we ought to pass—expanded IRA's, first-time home buyer tax credit, alternative minimum

tax relief, expansion of the earned-income tax credit. I have no quarrel with certain substantive portions of the bill, except that some are deftly diluted versions of measures I support.

However, it is truly unfortunate that these important progrowth policies must be held hostage to an inside-the-beltway political battle. We all know why the tax hikes are contained in this bill—and it's obviously not because it is any form of appropriate economic medicine. It is not even because it is what the American public is clamoring for. In fact, they are speaking out against that sort of pandering at the polls. It's in there only to guarantee a veto.

There isn't a Senator in this body that can't accurately predict the course of events that will follow from this debate. In some form—however amended—this tax bill will pass this body on a party line basis. The Senate will confer with the House and send to the President a tax bill with a major tax hike as its centerpiece. He will veto that bill, as he has promised. And so we will be back to square one here in a few days or weeks.

What really galls about all of this is the ironic fact that there are real points of bipartisan agreement concerning what needs to be done for the economy. Despite the sound and fury by Members of the Congressional majority that, "The President doesn't have a plan, but we do. We know what needs to be done". When you strip away the tax redistribution portions of this bill—which no one pretends will help the economy, one—what do you see? Watered-down versions of the capital gains tax cut, of the investment tax allowance. You see expanded IRAs and a \$5,000 first-time home buyers' tax credit.

One can see in these provisions a twisted and sick sort of admission that the President's proposals—which receive so much shrill criticism around here as being inadequate, are exactly the right medicine—although they've had to be watered-down in this bill to make room for the rest of the authors' tax agenda. The result is a bill that aims to produce less growth but more votes.

This is the much-ballyhooed alternative to the President's policies. Those who have lambasted our President over the recession have argued that, given the chance, they would be able to provide the answer to our economic problems.

Well, this is it. This tax bill essentially tells us what the Democratic answer is to our economic problems. The bill tells us that they think it has nothing to do with the deficit—since none of the tax hike in this bill goes towards deficit reduction. The bill tells us that they don't believe the President, that national savings rates are a great problem—because his proposals

for reduced capital gains rates and an investment tax allowance have been included only in diminished form.

This is their economic plan for America: raise taxes. Parcel out less than \$1 a day from that tax hike to working Americans. Apply none of it to the Federal deficit. Try to squeeze some of the President's progrowth measures out of what is left.

The deficiencies of this tax legislation are self-evident. I will not belabor them further. I do want to close by saying that I do not mean to be totally jaded in my remarks about this legislation. There are things in it which surely need to be enacted. Senator BENTSEN has made many public remarks that I personally agree with—concerning our need for enhanced national savings, for example. He has worked hard to advance the cause of expanded Individual Retirement Accounts and other savings vehicles. In those efforts he has my full and sincere support.

But we can do better than this. There is a broad bipartisan consensus in favor of many progrowth, prosavings measures. Most of us here want to expand IRA's; to provide tax credits for first-time home buyers; and to reduce at least some capital gains taxes. We have at least \$10 billion to work with in the form of the President's additional next-year defense cuts. We could be standing here with a tax bill that reflects these commonly held beliefs.

Instead, we are debating a bill which every member of this Chamber knows will be vetoed—indeed, which was crafted with that in mind. I have heard the majority leader defend this bill by saying "It is not partisan for the Democrats to advance their own tax legislation, as the President has advanced his." The point of my remarks is not to label the authors partisan or cynical—the point of my remarks is that, whether we attach those labels or not, no one out there is going to benefit from this exercise. And that is unfortunate, when we agree on much that we should do.

Therefore, I ask my colleagues to vote against this legislation and to keep tax increases off the table for the rest of the tax debate this year. The sooner we set about crafting progrowth tax legislation, the better off Americans will be. I thank my colleagues and I yield the floor.

#### HEALTH REFORM AND ECONOMIC STIMULUS PACKAGE

Mr. McCAIN. Mr. President, I rise today to provide my comments on the Family Tax Fairness, Economic Growth and Health Care Access Act of 1992. To suggest that this bill will lead to tax fairness and economic growth is misleading. I will elaborate on this assertion in a moment, but I would first like to touch on the health care component of this legislation.

I am a strong supporter of this portion of the bill. In fact, this portion of

the bill is based on one piece of my health reform package—legislation I recently introduced with Senators BENTSEN, DURENBERGER, and others.

Mr. President, the American health care system is very much like a contagious patient, infecting us all.

While more than 80 percent of our citizens have health care coverage, and our system offers the highest quality care in the world, the conditions disclosed on the medical chart at the end of the health system's bed are nonetheless alarming:

Over 37 million uninsured;

Health expenditures for all—individuals, businesses, and Government—are rising rapidly;

Rural areas are facing health care provider shortages, while hospitals struggle to keep their doors open;

Nearly 25 percent of every dollar spent on health care is consumed by defensive medicine, due to the medical liability crisis;

Inadequate prenatal care for young mothers, and nearly 10 million children lacking access to health coverage;

Inadequate focus on basic primary and preventive care;

Unequal access to Medical services;

And, prohibitive costs of long-term care.

Our health care system is able to deliver high quality services to all Americans who need care in an equitable manner. The problem is, it just doesn't do it.

Our health care should reward innovative and efficient delivery of services. Instead, it encourages defensive medicine; shifts uncompensated care costs to private payors; and forces hospitals and clinics to compete in an unending medical arms race.

As a society, we have allowed enormous layers of bureaucracy to be layered into the physician patient relationship, resulting in tens of billions of health care dollars spent on nonpatient care activities.

Worst of all, by not encouraging healthy lifestyles and the appropriate use of health services, we are needlessly spending enormous amounts of money.

What has made this crisis so potent, and rocketed it to the top of our Nation's domestic priorities, is that it affects every American.

Contained in the legislation before us are provisions addressing one critical segment of the crisis—the fact that health insurance has become inaccessible and unaffordable for so many small businesses. This is borne out in the fact the vast majority of the uninsured either work for or are the dependents of employees who work for small businesses.

The bill before us would do a number of things:

Allow self-employed individuals to deduct 100 percent of the cost of health insurance premiums. Currently, only

larger companies can deduct 100 percent of these costs.

Prohibit insurers from excluding individuals in a group from coverage, and from canceling policies due to claims experience or health status.

Prohibit insurers from denying coverage due to a preexisting health condition.

Limit annual insurance premium increases for small employer health plans to no more than 5 percent above the underlying increase in health care costs.

Limit the amount by which insurers can vary premiums for different groups.

Require insurers to offer small businesses at least two minimum health insurance packages, which would waive at least some of the State mandates.

This package also establishes an 11-member Health Care Cost Commission to collect and report data associated with public and private health costs in the United States and internationally, and make recommendations for health care cost containment.

The bill would also provide Medicare coverage of flu shots for the elderly.

I certainly would not suggest that if we adopt this bill we will have resolved the health care crisis, but this bill takes a significant step in the right direction. And, I believe Senator BENTSEN is to be commended for pushing these health care provisions through the process, and having the foresight and wisdom to see that we put aside the rhetoric and start reforming the system and resolving the uninsured problem.

Mr. President, it is certain that the Family Tax Fairness, Economic Growth and Health Care Access Act of 1992 will not become law. It is my hope that when we do ultimately put together legislation that will promote tax fairness and economic growth that this health package will be included. This is one Senator who plans to assist in making sure that it is.

I would now like to turn my colleagues' attention to the fact that this legislation is really not about tax fairness and will not do anything that results in economic growth.

The tax portion of this Democratic legislation claims to provide fairness for middle-class families. I think a close inspection would expose this bill as an election year gimmick that will not provide fairness or tax relief.

Chairman BENTSEN stated on March 10 that "enactment of this legislation is going to help middle-income families."

I must disagree. I feel that enactment of this legislation will only confuse many who thought that they were middle class, and thought they were going to get \$300 per child.

This legislation effectively discriminates against children. The credit is phased out for taxpayers with adjust-

able gross income between \$47,500 and \$60,000. Thus, for a couple with two children who claim the standard deduction, the phaseout of the tax credit would begin at a taxable income of under \$35,000. The phase out would be completed at a taxable income of under \$55,000.

The way the bill is written, those families that have two children and have a taxable income of between \$35,000 and \$55,000 are not middle class enough to receive the full credit of \$300 per child—or less than \$1 a day. That roughly equals the relief that the widely criticized proposal by President Bush to change the withholding tables would have provided.

The Office of Management and Budget [OMB] has studied the child tax credit, and determined that 40 percent of families with children would receive no benefit.

The phaseout provisions in the bill discriminate against children by producing a negative incentive effect. This occurs because the amount of credit decreases inversely with the number of children in the phaseout range. A large family would effectively receive less tax relief than a small family in the phaseout range.

The phaseout provisions raise the effective marginal tax rate by 1.5 percent per child. Thus, for one child in the phaseout range, a family effective marginal tax rate would rise from 28 to 29.5 percent. For two children, it would be 31 percent and so on.

Even though some tax relief is available for families—less than \$1 a day per child if the family qualifies—the credit structure effectively discriminates against having children.

A family in the phaseout range would face an effectively higher marginal tax rate if they decided to have another child.

The phaseout provision is also strongly biased against productive activities. Specifically, a family under the phaseout level would have to consider the value of any rise in income against the loss in credit. This credit provides a disincentive to work, save, invest, or have more children.

I am not a tax expert. Most taxpayers are not experts. I fear that this credit is confusing. I would prefer a straight increase in the deduction allowable for qualified dependents.

The child tax credit also cleverly indexes the credit for inflation while not indexing the phaseout range. Thus, as the credit rises, the phaseout range is lowered by inflation and the amount of the phaseout increases.

This will effectively reduce the threshold for leaving the middle class and entering the realm of the wealthy at an adjusted gross income of \$36,000.

So what does all this mean?

It means:

First, that many families who were led to believe that they would receive a \$300 tax credit per child won't.

Second, the threshold for the phaseout of the credit will fall every year as a result of inflation and as the amount of credit lost increases, and

Third, finally, it will provide little relief, little fairness, an enormous amount of disappointment and anger among middle-class families.

It is unfortunate that this confusing, ill-conceived provision has misled many working families. Many will not qualify for the full credit. Many will not qualify at all.

I would like to add that I am a co-sponsor of S. 701, the Tax Fairness For Families Act. It is simple, straight-forward, and would provide dramatic relief for working American families. It would increase the amount of the exemption for dependent children under age 18 to \$3,500. It would also index the exemption for inflation.

There are no confusing phaseout rules that provide negative incentives to American families. There is no false notion of distributional justice known as soaking the rich. In the Democratic bill, the soaking of the rich begins at a taxable income of \$35,000 where the phaseout of the credit begins. Despite all the misleading rhetoric, the Democratic proposal is antifamily and antimiddle-class.

The Tax Fairness For Families Act is profamily, promiddle class, and provides more than \$1 a day in relief. It is preferable to the legislation before us today.

Mr. President, I would like to discuss other provisions in the bill at this point.

I am particularly concerned about the unwarranted and counterproductive provisions that dramatically increase the marginal tax rates of many Americans who have realized the American dream of success.

Specifically, the Democratic legislation increases the statutory income tax rate from 31 to 36 percent on individual filers who earn over \$150,000 and for couples earning over \$175,000.

The Democrats also want to create a new tax rate of 46 percent on taxable income over \$1 million. This new tax rate is disingenuously called a surtax. It is not a surtax. It is a third marginal tax rate. It is a powerful disincentive to work, save, and invest. It is a powerful incentive against success. It is an impediment to opportunity.

Given the choice of having 46 cents confiscated by Washington for every dollar earned beyond a taxable income of \$1 million or simply doing anything but working; the incentive is not to send 46 cents to the money pit in Washington.

Mr. President, whether it is a taxable income of \$20,000 or \$1,000,000, it is not our money.

Higher marginal tax rates will not bring fairness or economic growth to our Nation. It will simply redistribute income in an election year gambit for

votes. The policy of income redistribution is the road to economic and social dissolution. The Soviet Union tried for 70 years to redistribute income and control the economic destiny of her people. The politics of class warfare has brought the Soviet Union to economic and social dissolution. It is a failed policy that I do not support.

I must also contest the false charge that the so-called rich are not paying their fair share. As a result of the 1981 tax cut and the 1986 Tax Reform Act, the marginal tax rates for all Americans were reduced, but many credits, deductions, exclusions, and tax shelters were eliminated. Ultimately, a larger portion of upper income taxpayer's income was exposed to taxation.

Mr. President, let us see who shoulders the largest share of the tax burden as a result of the 1980's tax cuts that supposedly so benefited the wealthy.

According to the Congressional Budget Office [CBO], in 1980, the wealthiest 1 percent of taxpayers shouldered 18.2 percent of the total tax burden. In 1990, that burden had risen to 25.4 percent. That is a 40 percent increase in tax burden during the so-called decade of greed.

During that same decade, the tax burden for the bottom 60 percent decreased by 20 percent. For the bottom 20 percent, the tax burden dropped by a dramatic 150 percent.

The eighties were not a decade of greed. It was not a decade where the so-called rich escaped paying their fair share of the tax burden. The empirical data refutes the assertions of many Democrats. The wealthy clearly pay their fair share, and paid a greater share after the Reagan tax bills.

Mr. President, if we want to cut the tax burden on the middle class, we do not have to raise taxes on other Americans. We can simply cut spending to finance tax cuts.

One proposal to reduce spending that I support is S. 2093, the Ronald Reagan Peace Dividend Investment Act. Instead of raising taxes on one group of Americans to pay for cuts for other Americans, this bill cuts taxes for all Americans who paid for the 70-year fight against Communism—even that 1 percent of wealthiest Americans who pay for 25 percent of all Federal spending—by using cuts in defense spending to pay for tax cuts.

We won the cold war as a nation, we should share the benefits as a nation. The Peace Dividend Act would reduce taxes and the deficit by cutting defense spending without raising taxes on any other American.

Finally, I would like to turn to a few other provisions for comment. As a member of the Senate Republican Task Force on Real Estate, I am happy that this legislation addresses home buyer tax credits, the low-income housing tax credit, modification of the passive loss rules, a capital gains tax cut, and with-

drawal from IRA accounts for home purchases. These provisions are crucial to improving the sluggish real estate market in our country. These provisions will help many Americans realize the American dream.

While I feel that the Congress could have been more aggressive with the capital gains tax cut, overall the provisions relating to real estate are an improvement in present law.

There is one other tax provision I would like to address. This legislation repeals all the luxury taxes except those on automobiles. Perhaps, the job losses in the auto dealership industry are insignificant to some in Congress. I strongly disagree with that exclusion, and I will continue to pursue the complete repeal of all luxury taxes imposed by the 1990 budget deal.

In conclusion, there are simply too many bad provisions in this bill. It is a bad bill because raising taxes by \$57 billion is bad economic policy. The route to fairness and economic growth is not through tax increases. The route to fairness is through spending cuts, deficit reduction, and tax relief for all Americans.

I support the President's veto, and will uphold it on the floor of the Senate.

#### AFFORDABLE HEALTH CARE

Mr. MCCONNELL. Mr. President, while I do not intend to support final passage of H.R. 4210, I would like to take a brief moment to express my support of provisions in this bill that seek to improve access to affordable health care. The provisions enjoy broad bipartisan support, and I regret they are included in legislation destined for certain doom.

The health care reforms offered in this bill would assist individuals who are self-employed or employed in small businesses by establishing: A 100-percent deduction of health insurance premiums for self-employed individuals; minimum requirements for State laws regarding the sale of insurance to small employers; limits on premium rates for small employers; Federal grants to help small businesses band together to negotiate favorable insurance contracts; and a Health Care Cost Commission to advise Congress and the President on strategies for reducing health care costs.

Mr. President, more than half of the 36 million uninsured people in America are in families of workers employed by small companies. The provisions in H.R. 4210 would help these deserving citizens by guaranteeing the eligibility and renewability of affordable health insurance, and by limiting out-of-pocket expenses.

I hope that in the days to come, the Senate will continue to discuss our Nation's health care needs. While I find many faults with H.R. 4210, I think it offers a step in the right direction toward sensible health care reform.

Mr. DODD. Mr. President, I rise today to voice my strong support for the comprehensive economic package, H.R. 4210, put forth by my distinguished colleague from Texas, Senator BENTSEN. This proposal responds to the cries of middle-class Americans for tax relief and fairness. I only regret that it was so long in coming and today faces a Presidential veto.

Politics aside, this bill achieves two important goals. It provides a much-needed tax break for middle-income families and it offers long-term investment incentives for the growth of American businesses and job expansion. Both are critical to stimulating America's economic recovery and ensuring our competitiveness in the world market.

The tax relief proposal contained in this package is targeted to the people who need it the most—the middle-income working families with young children.

To provide for meaningful tax relief we offer a \$300 tax credit per child for families. With this, we reach out to 60 percent of all families in my home State of Connecticut. Families who find themselves in a financial vise—squeezed by greater tax burdens and rising costs. Any relief from this pressure would help maintain the integrity and prevent further erosion of the family unit.

Unfortunately, as this debate has progressed, the call for tax reform has been overshadowed by political game-playing.

Just 2 months ago, during his State of the Union Address, the President joined the chorus in calling for a tax break for families. And as you know, he backed off from that position just a few days after his address and now has threatened to veto this measure. Moreover, since the President's call to action, he has been noticeably absent from this debate. He has provided no leadership—only blanket threats of a veto.

His threats have reduced this debate to an exercise in futility where, yes, we can voice our strong support for this proposal but we know we don't have the votes to override his veto.

This legislation deserves to be taken seriously, just as the problems and pressures facing the middle class deserve to be taken seriously. We owe it to our constituents—families and businesses alike—to offer real solutions, not false promises.

But false promises are all we can offer today. The President has left us no room for compromise. He has chosen to protect the richest 1 percent of Americans in place of tax fairness for the middle class.

And make no mistake, this stalemate and abundance of political game playing has been at the expense of families and businesses across the country.

Every time I return home to Connecticut, I see it in the eyes of my con-

stituents. My constituents are faced with real financial pressures. And they deserve relief. This week the Connecticut unemployment rate for the month of January was released. Once again, the rate has climbed—this time to a seasonally adjusted rate of 7.5 percent. For the third straight month our rate has passed the national average and remains the highest rate since 1983.

But, Mr. President, working families are also feeling the economic pressures. They have watched their taxes soar while their incomes have plummeted. This inequity was confirmed in a recent CBO report—CBO reported that 60 percent of the growth of aftertax income of American families between 1977 and 1989 went to the wealthiest 1 percent of our population.

This is not the time to play politics. It's time to reverse the trend. It's time to shift the tax burden off the shoulders of the working middle-class Americans.

The President agreed to help the middle class. He agreed to help families with children. Why, then, is he not behind this proposal? As you know, the President does not agree with how we pay for this tax relief. We face a veto threat because we ask the richest 1 percent to pay more in taxes. The President wants to pay for this much-needed help by increasing the deficit by \$27 billion. His proposal would leave this debt as a legacy for our children to pay.

The Democrats in Congress, however, under Chairman BENTSEN's leadership, took the time to figure out a way to pay for this bill without sticking our children with the cost.

By adding a fourth tax rate for people who have joint taxable incomes in excess of \$175,000, and single incomes in excess of \$150,000, and by placing a 10-percent surtax on those whose incomes exceed \$1 million, we are only asking the most affluent 1 percent to pay a little more in taxes. In doing so, we will liberate the majority of middle-class Americans who are long overdue for some type of tax relief.

Mr. President, in my view, asking the top 1 percent to pay a little more is a very small price to pay for restoring fairness and equity to our tax system. It is a small price to pay to help our nation's economy.

Most important of all, this bill is about putting people back to work. We in the U.S. Congress have the opportunity to promote social programs. However, I strongly believe that the best social program is a job. Mr. President, many of the effects of unemployment do not show up on a graph or a chart. But it doesn't take a chart to know that employed and productive Americans contribute to the overall well-being of this Nation.

For the first time since the Great Depression, thousands of hard-working Americans across my State of Con-

necticut and across the Nation are out of work. People who have never been without work before—people who are educated and skilled.

This is not a selective recession. It affects everyone from the blue-collar worker to the corporate executive. It affects families in our biggest cities and smallest towns.

To bring about these jobs and put people back to work, we must enhance our competitiveness and secure our prosperous future.

We must encourage long-term investments in our industries and job training. I firmly believe that the battle of the 21st century will be waged economically. We therefore need to pull ourselves out of this recession and prepare for the challenge of the next century.

We must reevaluate our priorities to include education and health care. We must invest in America because it is only through investing in America that we can thrive as a nation.

The second part of this measure includes provisions that encourage just that. It includes incentives to promote both the short-term and long-term economic growth this country needs. I would like to take the time to highlight just a few of the provisions included in this legislation.

A targeted jobs tax credit gives a tax break to businesses who hire less employable individuals who need training. A 10-percent investment tax credit for the purchase of new equipment, research and development credits, progressive capital gains tax credits, and a repeal of the luxury tax on boats all encourage economic stability and growth of businesses.

The repeal of the luxury tax is of particular concern to my constituents along the Connecticut shoreline. For many of them, the repeal of the luxury tax is crucial to reenergizing their depressed businesses.

Investment in our depressed real estate market is another key component to achieving economic stability and growth. By allowing a \$5,000 tax credit for first-time home purchases as well as the penalty-free IRA withdrawals for first-time buyers, we can effectively provide the middle class with purchasing incentives and, at the same time, give the real estate market the push it needs to get back on its feet.

While these credits only apply to new homes, they still promise to aggressively stimulate a stagnant, inactive real estate market. This is especially true for Connecticut, which has been suffering for 3 long years from a depressed real estate market. These provisions would not only help first-time home buyers but would have a positive effect on the entire building trades industry. It would generate activity within both the commercial and residential real estate market, which in turn would lead to new job opportunities.

I believe a restoration of the full deductible individual retirement accounts, lost with the passage of the 1986 Tax Reform Act, will encourage increased savings. This legislation allows penalty-free IRA withdrawals for such costs as education and emergency medical expenses. The Student Loan Interest Deduction and the employer-provided educational assistance tax credit are two more key provisions of this bill for improving the educational opportunities for all Americans.

This legislation also touches on some aspects of the health care crisis we are currently trying to remedy. The bill includes a 100-percent deduction for health insurance premiums for self-employed individuals and an orphan drug tax credit. The Small Employer Health Insurance Reform provision will help provide insurance for many of the underinsured and uninsured members of society since most are employed by small business.

If we pass this bill, with overwhelming support, we will respond to the concerns and problems facing our constituents. We are sending them the message that, yes, we hear you and, yes, we are doing something about it.

We are also responding to the concerns and requests of the President. This comprehensive tax bill includes the seven items the President proposed in his 7-point tax plan. It also includes the child tax credit the President originally supported and which I have pushed for since last spring. The President expressed his desire to work with Congress in passing an economic recovery package. This legislation represents a realistic melding of the two parties—it satisfies both the President's requests and the Democrats' call for fairness.

As I said earlier, this is not the time to play politics, Mr. President. People are suffering and they need our help.

The absence of real leadership has paralyzed our ability to provide real solutions. The strength of our country and the well-being of our people depend on the passage of this measure or one like it.

Our failure to accept such a viable and reasonable solution to pervasive problems in today's economy will only serve to weaken this country. It will weaken our ability to compete. And it will weaken our standard of living.

I regret that our efforts of the past year culminating in this piece of legislation are destined to face a veto. However, I believe this bill contains good policy. Bad politics, yes, but very good policy. A strong vote in favor of this package will send a message to the White House, loud and clear, that the middle class is sick and tired of politics and more than ready for some good policy.

For this reason, I strongly urge my colleagues to put politics aside and join me in supporting this bill.

#### INSURANCE PORTABILITY FOR THE SELF-EMPLOYED

Mr. PRYOR. As I believe the chairman knows, I have been working on an amendment to extend your important job-lock and other insurance market reform protections to people who want to start their own self-employed business but do not do so for fear of losing their current employer provided insurance. Particularly during a time of economic downturn, we do not want people to not start businesses simply out of fear of losing health insurance.

Since there are outstanding issues that have yet to be resolved on this amendment, I will not offer it today. I do strongly believe, however, that we should do everything possible to get this self-employed protection enacted into law.

Mr. BENTSEN. I am well aware of the Senator's interest in and hard work on this important matter. As he knows, I share his commitment to finding ways to extend portability and other important insurance market reforms to the self-employed of our Nation. I commend the Senator on his work and share his hope that we can work out any problems in this proposal. I look forward to working on this during the joint Senate/House conference on this bill or, if this is not feasible, later this session.

Mr. PRYOR. I thank the chairman. I, too, look forward to working with him in order to remove the barriers that presently exist in providing health insurance for our Nation's self-employed.

#### AGE LIMIT IN SELF-RELIANCE LOAN PROGRAM

Mr. BRADLEY. Let me first thank Chairman BENTSEN for seeing the merits of giving American families a better option to pay for higher education. The Self-Reliance Loan Pilot Program included in this bill is the most profitable investment we can make in economic recovery and confidence about the future.

I rise to discuss one component of the program that has presented a problem and suggest some ways we might achieve the same objectives in a different way. Self-Reliance will be particularly useful for the nontraditional student, the student who does not start a 4-year degree program at age 18, but who returns to develop more skills after raising a family or to get a better job. Because Self-Reliance requires borrowers, on average, to repay their loans within 25 years from the income they will gain from education, it was necessary to limit eligibility to those under 50, because they would be most likely to keep working for enough years to pay off the loans. But I know that there are many nontraditional students, displaced homemakers, and displaced workers, who are over 50 but need better education. I have always intended that if we could find a way to include them in this program, we would do so.

Before I describe an approach that will achieve that goal, let me make clear why it was necessary to limit eligibility based on age in the first place. That limit was not grafted on to the bill, but is intrinsic to a program that balances high- and low-earners so that the whole loan program is actuarially sound. Economists, such as Robert Reischauer, now head of the Congressional Budget Office, have referred to this as a "front-loaded social insurance program." Social Security and Medicare, traditional social insurance programs, provide a benefit after participants, on average, have paid for the benefits. Self-Reliance provides benefits first, then gives people up to 25 years to pay for them as their incomes grow over time.

Some people pay for all the Social Security they will receive by age 45, but we do not let healthy 45-year-olds collect Social Security. The social insurance concept would collapse if we did. In the same way, though some people over 50 might work long enough after going back to school to pay for their Self-Reliance benefits, most will not. After retirement, when much of their income will come from tax-exempt Social Security benefits, the fixed percentage of taxable income they would repay for their Self-Reliance borrowing will not be enough, on average, to repay the loans.

Mr. President, let me suggest a possible solution that is better than an age cap. Would the Senator consider adding language, before this bill goes to the White House, that would ask the Secretary of Education to develop special repayment schedules not just for borrowers close to or past retirement, but for all borrowers who might be likely to derive much of their income from tax-exempt sources. This would apply primarily to those 55 or older, because everyone, by age 70½, receives Social Security and most Social Security payments are tax exempt. They might have to pay back 4 percent of income each year instead of 3 percent, so as to complete payback in about 15 years where another borrower would have up to 25 years to repay.

Mr. BENTSEN. Does the Senator from New Jersey know whether this will affect the costs or the actuarial soundness of the Self-Reliance Loan Program?

Mr. BRADLEY. The Congressional Budget Office has advised us that it would have no effect on the 5 percent subsidy cost of Self-Reliance loans. The reality is that very few older people borrow heavily to go back to college, and we would have the alternative repayment schedule for those few who do. Let me ask the distinguished chairman of the Finance Committee whether he expects that we could make a change along these lines in conference.

Mr. BENTSEN. Assuming that the conferees agree to include Self-Reli-

ance in the bill that goes to the President, this suggestion makes good sense.

Mr. BRADLEY. I thank the chairman for his continued interest in helping people obtain the education that is the only sure path to economic growth.

CLARIFICATION OF CAPITAL GAINS EXCLUSION  
ON CERTAIN SMALL BUSINESS STOCK

Mr. FOWLER. Mr. President, I would like to ask the chairman of the Finance Committee, the gentleman from Texas [Mr. BENTSEN], a question concerning section 2311 of the bill.

This section of the bill provides for a capital gains exclusion with respect to gains on certain small business stock. I commend the gentleman from Texas for helping small business in this way. As the distinguished chairman is aware, small businesses face an increasingly difficult time finding sources of equity capital and this provision is a needed incentive for long-term investment.

Mr. President, the Committee explanation of this capital gains incentive notes that qualified "small business stock" is that of a domestic C or S corporation. As I read the provision the stock of a minority enterprise small business investment company [MESBIC] could qualify under certain circumstances. I would ask the Senator from Texas if my understanding of the provision is correct.

Mr. BENTSEN. The Senator from Georgia is correct in his understanding of section 2311 of the bill. The stock of minority enterprise small business investment companies could qualify under certain circumstances.

Mr. FOWLER. I appreciate the chairman's response. As the Senator from Texas knows, a shortage of equity capital is particularly acute for minority small business. In 1970, Congress authorized the MESBIC Program as part of the Small Business Investment Act to help address this need. In the face of many obstacles, MESBIC's and the minority venture capital industry in general have made a real difference. For example, two MESBIC's are located in Georgia, one in Macon and the other in Atlanta. They have helped create new jobs in Georgia and our region by providing critical financing for startup companies and for more established firms.

I think it is very important that MESBIC's are eligible for the capital gains provision in the bill and I believe whenever possible we must consider additional ways to support this sector of the small business venture capital industry. In this regard, I note with great interest that the House of Representatives has developed similar legislation, H.R. 4221, the Minority Enterprise Development Act of 1992. This legislation provides limited deductions for purchases of small minority business stock, and a capital gains exclusion. I am carefully reviewing that bill and I

encourage my colleagues to do likewise.

Again, I thank the distinguished chairman of the Finance Committee for his response to my question.

ACCELERATED DEATH BENEFITS

Mr. LIEBERMAN. Mr. President, individuals suffering from terminal illnesses are forced not only to confront the tragedy of their illness, but also the overwhelming economic consequences of their condition. AIDS and cancer patients often lose their jobs, access to health insurance, and their homes. Some are forced to forgo life-sustaining or life-improving care. Many of those who are seriously ill also find themselves completely destitute.

Their situation is tragic. Millions of Americans have carefully saved thousands of dollars over the years in life insurance plans. This money could provide terminally ill individuals access to needed medical care, a roof over their head, food to eat, and keep them off public assistance.

Many life insurance companies are offering the terminally ill an advance on their death benefits to ensure that they will have the funds needed to care for themselves. Insurance commissioners in all 50 States have now approved the addition of accelerated death benefits to life insurance policies, providing the terminally ill with critical financial resources in their final months.

While death benefits are excluded from income tax under current law, the law needs to be clarified with respect to the payment of accelerated death benefits to the terminally ill. Only with this clarification can we ensure that the terminally ill will have access to their own savings to enable them to live the remaining months of their lives as normally and comfortably as possible.

Mr. President, I understand that the distinguished chairman of the Finance Committee was unable to include this provision in this important economic growth package and I know that he supports this tax clarification because he has included it in his own long-term care legislation. But I note that The Living Benefits Act, S. 284, now has 73 cosponsors in the U.S. Senate, and I would ask the distinguished chairman of the Finance Committee, Mr. BENTSEN, if, at the earliest possible date, his committee will consider this needed and worthwhile tax clarification.

Mr. BENTSEN. Mr. President, I support legislation to clarify the tax treatment of accelerated death benefits and I realize its importance for those Americans affected. Let me say to the Senator from Connecticut that I applaud his efforts to help the terminally ill and I assure him that I will work with him to enact this legislation in this Congress.

## VALUATION OF FAMILY FARM ESTATES

Mrs. KASSEBAUM. Mr. President, several years ago Congress decided family farms should remain in the family. Congress did not want those who inherit family farms to lose their land because of inflated land prices and speculation.

Accordingly, Congress passed a law providing that family farms could be valued at their income-producing value as opposed to their open market value. At the time, speculation had driven the farm prices well beyond the farm's income-producing capability. To prevent abuse, the special-valuation statute provided that if the farm was converted to a nonfarm use, or sold outside the family within 10 years from the date of the valuation, the heirs would be retroactively liable for estate taxes on the farm's market value at the time of the parents' or grandparents' death.

This antiabuse provision worked well until a ruling that the special-use valuation was not satisfied if family members cash rented the land to other family members.

Many families engaged in intrafamily cash rent arrangements believing they were fully complying with the special-use valuation requirement. You can imagine a family's frustration and dismay when the Internal Revenue Service began assessing them for retroactive estate taxes which, when coupled with penalties and interest, often exceeded the value of the farm.

To correct this problem, I introduced along with Senator CONRAD and Senator DOLE S. 1045 permitting cash rent arrangements between family members. The amendment would be retroactive and take effect as if included in section 6151(a) of the Technical and Miscellaneous Revenue Act of 1988. Moreover, the statute of limitations would be waived so that taxpayers could claim refunds resulting from the application of this amendment. A similar measure, S. 1061, has also been introduced.

It is my understanding that the Internal Revenue Service has suspended action on this issue for 6 months pending the legislative progress of S. 1045 and S. 1061.

I am prepared to offer these bills as amendments to this legislative package. However, it is my understanding that you believe that legislation allowing cash leases among family members is not objectionable on tax policy grounds and that you plan to review this issue in the Finance Committee at the next available opportunity.

Mr. BENTSEN. I would say to the Senator from Kansas that she makes some valid points. In 1988, we authorized cash leases by surviving spouses and I believe that cash leases among family members generally are not objectionable on tax policy grounds. However, I would very much prefer to consider this legislation when the Finance

Committee acts on technical corrections legislation, perhaps as early as this summer. These bills both have merit and I look forward to working with Senator KASSEBAUM and Senator DOLE, who is a member of the Finance Committee, to resolve this issue. I understand that another member of the Finance Committee, Senator DASCHLE, is also very interested in this issue.

Mrs. KASSEBAUM. With this understanding, I will withhold offering these bills as amendments and look forward to having them considered as part of the anticipated technical corrections legislation. I would encourage the Department of the Treasury and the Internal Revenue Service to suspend action until we have a chance to act on this matter as part of the technical corrections measure. It will create unnecessary upheaval if families are forced to sell their farms to pay the retroactive taxes, interest and penalties if it is Congress' intention to correct this technical problem as part of an expected technical corrections bill. I know Senator CONRAD and Senator DOLE share these views.

Mr. DASCHLE. The distinguished chairman of the Finance Committee is correct that I, too, am very interested in resolving this issue. It is my intention to have the Subcommittee on Energy and Agricultural Taxation, which I chair, include this measure in a hearing to take place in the near future on farm tax issues. I sincerely hope that we can clarify this issue in legislation this year.

## INDIAN TRIBE ELIGIBILITY

Mr. BOREN. Mr. President, I rise to seek clarification from the distinguished chairman of the Senate Committee on Finance, Senator BENTSEN. Mr. President, it has been brought to my attention that the Internal Revenue Service has determined that the Cherokee Nation of Oklahoma, a federally recognized Indian tribe, is a tax-exempt entity for purposes of IRC section 401(k)(4)(B) and therefore is not eligible under that section to establish a qualified cash or deferred arrangement. Section 4212(a) of the Senate bill retains the existing prohibition in IRC section 401(k)(4)(B)(i) against establishment of a cash or deferred arrangement by "a State or local government or political subdivision thereof, or any agency or instrumentality thereof." The bill eliminates, however, the prohibition in IRC section 401(k)(4)(B)(ii) against cash or deferred arrangements of "any organization exempt from tax" under subtitle A of the code which provides for Federal income taxes generally.

Under a long line of Internal Revenue Service rulings, federally recognized Indian tribes are not treated as States or local governments or political subdivisions thereof or any agency or instrumentality thereof. The only exception to this general rule is found in IRC

section 7871, which treats Indian tribal governments as States for certain specified purposes of the code but not for purposes of IRC section 401(k). Accordingly, the prohibition against establishment of a cash or deferred arrangement by a State or local government and related entities cannot serve as a basis for denying eligibility to Indian tribes for such arrangements.

As I read the statutory language in section 4212(a) of the Senate bill, tax-exempt organizations, which currently are not eligible to establish cash or deferred arrangements, would become eligible after December 31, 1992. Therefore, employers, including Indian tribes previously denied eligibility on the grounds that they are a tax-exempt organization, should be eligible to establish a cash or deferred arrangement for their employees under the Senate bill. Is this the intent of section 4212(a) of the Finance Committee bill, Mr. Chairman?

Mr. BENTSEN. Yes, the Senator from Oklahoma is correct. The intent of the Finance Committee bill is to ensure that employers that are exempt from tax under subtitle A of the Internal Revenue Code, other than State or local governments or political subdivisions, agencies, or instrumentalities thereof, would be eligible to establish plans under section 401(k) for their employees.

## INFORMATION REPORTING FOR CHARITIES

Mr. COATS. Mr. President, a proposal has been receiving some attention lately which would lower the IRS reporting requirement for charitable contributions to nonprofit organizations from \$5,000 to \$500 and, for the first time, apply this requirement to churches, synagogues, and mosques.

It is my understanding that the administration has reconsidered applying the reporting requirement to the above mentioned religious organizations, but it is important to clarify the devastating impact this proposal would have on charitable contributions as a whole and the resources upon which churches and nonprofit organizations now rely on for their good works.

Should this proposal become law, the magnitude of paperwork for churches would be astonishing. First, churches would have to maintain Social Security numbers for all of its donors. Second, because aggregate contributions would count, careful records of every individual donation would have to be kept in the event that any individual's total donations would exceed \$500 in a year.

Clearly, Mr. President, this kind of reporting burden would force churches to hire staff and consume already scarce resources to comply with IRS requirements. This would divert funds from many of the charitable programs on which so many needy people rely including church food kitchens, hospices, homeless shelters, child care, school

components, AIDS programs, and international hunger programs like Catholic Relief Services.

These same regulatory burdens would apply equally to nonprofit organizations who often have anywhere from 100,000 to millions of donors.

When the conferees consider this tax bill, Mr. President, I hope they will agree not to include this proposal.

Mr. PACKWOOD. Mr. President, I think the Senator from Indiana makes a very good point.

This proposal would cause administrative headaches for charities that they are currently not experiencing.

Mr. President, I agree with my friend from Indiana; I do not think this is a workable rule and I hope the conferees will not include this proposal.

Mr. BENTSEN. As the Senators are aware, this reporting requirement, proposed in the administration's budget, has not been included in this bill, nor is it included in the House bill. I have serious concerns about the application of the proposal to religious institutions, and I would certainly oppose that.

Mr. ROTH. Mr. President, as I have listened to the debate surrounding this tax increase—this tax increase disguised as economic reform—I have recalled that when Congress first passed the income tax amendment of 1909, it did so with the promise to the American people that the new Federal tax would never, ever exceed 5 percent.

Today, I've been thinking how those legislators would be aghast at what Congress has done with this vote. What's more ironic than the fact that this bill increases the top rate of taxation to over 36 percent—over 30 percent above the promised ceiling of 5 percent—is the fact that this legislation flies in the face of what Americans want; it flies in the face of what America needs. This tax increase is more than 12 percent above the highest tax rate just 2 short years ago—12 percent in 2 years.

It makes one wonder what Americans can expect in the next 24 months. What's worse, however, is that this tax increase has been passed by the majority in this body for no other reason than election year politics.

It's a tragedy, Mr. President. It's a tragedy not only because this tax increase comes at a time when our economy can ill afford it, but that it comes for nothing more than political reasons at a time when the American people are tired of politics. It comes at a time when the American people are concerned about the future—about economic growth and jobs. And yet this measure is the antithesis of what our country needs to create growth and jobs.

These past 3 days, I have listened to revisionist economic history from several of my big-spending liberal colleagues. I have heard them use discred-

ited and partisan CBO statistics to make claims that are not only outrageous but dangerous. I have listened to them try to discredit the Reagan economic recovery—the longest peacetime economic expansion in history. I can only assume from their logic—as well as their willingness to use CBO's partisan disinformation—that they long for the economy our Nation suffered under during the Carter years.

They must long for those years of double-digit inflation, soaring unemployment, and economic misery. Because with the record-setting tax increase they imposed on the American people in 1990—the tax increase they levied with the promise that it would be the increase to end all increases—they welcomed those years back with open arms. Now—with this bill—they've invited those years to stay.

I don't say this with anger, Mr. President—not as much as I say it with sorrow and real concern. This bill clearly demonstrates that this Congress—at least the majority in this Congress—is unwilling to put people above politics. It demonstrates that the majority controlling Congress remains unwilling to make the hard choices that are necessary for good government; they are unwilling to break from their tax-and-spend-and-get-re-elected ways.

Well, quite frankly, all I can say is that I'm glad this political charade is over. This so-called economic reform package can go to the President for his veto. With that veto, he can prove to the American people that he is sincere when he says the biggest mistake of his first administration was being sucked into the 1990 tax increase. Then, hopefully, we can come back here and work together to orchestrate real reform—revolutionary reform that builds on proven economic history—history that proves growth and jobs follow real tax cuts, just as growth and jobs followed Roth-Kemp in 1982—just as growth and jobs followed the Kennedy tax cuts 20 years earlier.

The revolution I'm talking about puts the taxpayer first. It puts the American family first—as well as the American worker. Real revolutionary reform has incentives to save, incentives to invest, incentives that encourage self-reliance and personal responsibility. What the majority in this Congress has tried to do with this package is tie a tiger with twine. It won't work. Quite simply, what America needs for real economic reform is the Bentsen-Roth super IRA to increase savings and promote self-reliance, home buying, and education. What America needs for real economic reform is a viable investment tax credit. What America cannot support—not under any circumstances—is a tax increase.

If we are to be successful in creating economic growth, prosperity, and a competitive position for America in the future global community, we must

go beyond the politics that have resulted in the passage of this package today. We must put an end to the outrageous spending practices that bind this body to debilitating tax increases. Our spending cuts must be real. To make those cuts, our military must be brought into balance to reflect current needs. Our bureaucracies must be made more efficient and even reduced through attrition—including Congress. From top to bottom, old and wasteful programs must be done away with. And above all, Mr. President, our power to tax must be seen as a trusted stewardship and not as a mechanism for political gain.

The problem with this legislation, quite frankly, is that its vision does not go beyond the next election. We should not be here today thinking about November. We should be here doing what the people back home want us to be doing; we should be here thinking about how we can make America the No. 1 economic Nation now, throughout the 21st century, and even beyond. Any legislation that does not help us meet that end should be eliminated immediately. And this legislation does not help.

Mr. President, we stand at a historic moment. The world as we knew it even 2 years ago has been transformed. Opportunities await us—opportunities to make real reductions in Government expenditures—opportunities to use the new role we have as the world's one and only superpower nation to orchestrate real reform here at home—opportunities to set our course for the future as other nations are setting theirs. The degree of this current economic crunch Americans are feeling—exacerbated by the record-setting tax increase 2 years ago—has brought us to this watershed. Let's use it the way we should use it.

Let's use it for real reform—to do the things that until now we've only talked about—to do the things the American people want us to do. Let's not compromise for short-term political gain.

That's what this legislation does. It's my optimistic hope that when President Bush vetoes it—as certainly he will and certainly he should—that we will come back here—that we will put politics aside—and that we will do what really must be done for the benefit of all Americans.

#### INVESTMENT TAX ALLOWANCE

Mr. FOWLER. For the past several years, American exports have been far outstripped by our imports, creating persistent large U.S. trade deficits. Despite some improvements last year, we still had a \$67 billion global trade deficit—\$43 billion with Japan alone. Those persistent trade deficits have created a substantial accumulation of debt owed to other countries, and servicing that debt in turn has had a major effect on our economy. By reducing our trade deficit, we would be able to enhance in-

vesting spending here at home. That is bound to improve our economic climate—with positive effects on production and job opportunities.

One of the key objectives of the investment tax allowance included in this legislation is to spur that kind of domestic investment spending—thereby improving our economic climate and our employment opportunities. It is equally critical that the U.S. Senate also make another important point clear: as American purchasers make qualified investment decisions that allow this tax allowance to be utilized, they be encouraged to consider purchasing high-quality products made in the United States whenever feasible.

Mr. BENTSEN. The distinguished Senator from Georgia makes some important points about our trade deficits and the toll they take on our economic strength. I thank him for his leadership on this issue and for his thoughtful remarks concerning the role of the investment tax allowance in stimulating critically important domestic investment spending.

Mr. KERREY. Mr. President, I have examined and will vote against H.R. 4210, the Tax Relief for Americans Families Act.

Although I applaud the work done by the chairman of the Finance Committee and others who have worked hard on this piece of legislation, this entire debate should be taking place after the debate about American economic conversion and our economic future. There is an urgent need to change much of our Federal Government's structure and priorities. The entire national security state—built up over the last 45 years—will not adapt on its own; structural changes and technological needs must be addressed. We must fight to shape our economy differently or America will suffer the consequences. We need a vision of our economic future and then a tax policy that supports it.

Mr. President, one of the hazards of politics is a condition characterized by a dulling of the senses. You know you have the disease when things that smell to high heaven begin to go unnoticed. Passers by wonder how we can stand it, while we wonder cluelessly why all these good people are holding their noses.

We have recently witnessed a good example of growing accustomed to something that would gag the normal human—the events surrounding the bounced checks in the House of Representatives. Finally and fortunately they noticed the foul stench of a cover-up and acted.

Mr. President, when I first heard about the check bouncing incident it struck me as a wonderful opportunity for Congress to demonstrate our understanding of the problems of the average Joe. He has grown accustomed to living at the financial margin. He knows the

humiliation of calling a bank clerk to explain why a \$2.98 check for toothpaste didn't clear.

But the odor of this disgrace is made less detectable by the pungent presence of so many well paid lawyers and lobbyists who have acquired an interest in the tax legislation being considered by both Houses. Their enthusiasm for the task at hand, like the smell that issues from a bushel basket of rotting fish, is all we should need to tell us not to jump in.

The Hill is alive with the sound of money. There are millions of dollars of fees and campaign contributions chasing billions in tax breaks. Each of these tax breaks is sold as a way to restore equity, or as a means to the objectives of growth, financial security, or the end of America's economic woes. In fact, parts of the bill are little more than a finely calibrated measurement of which organized interests are most powerful.

I first got wind of what was going on when the President gave his State of the Union Address. During that address the President improperly focused his attention on tax policy as a way to calm the recession-driven panic amongst American consumers. Having earlier mocked his purchase of three pairs of socks at Christmas, I now wished I had encouraged the President to buy more.

I watched the State of the Union Address from the home of an unemployed Buchanan supporter. The speech had been billed as a make or break address for George Bush. I had read an advance copy and on paper it looked quite good. I had marked the places where I thought he would be interrupted for applause and found the total to be more than satisfactory for the postspeech commentators to judge him with high praise.

Even though the President in that speech prematurely declared one fifth of the world's population liberated from the grip of communism and preternaturally evaporated one-fifth of America's population who live in the clutch of poverty, I thought he had a stylistic winner. It seemed to pass the sniff test.

However, less than 5 minutes into this speech the President's political deodorant began to fail him. The key moment came when a pair of two-word phrases elicited responses that I neither predicted nor initially understood. These two phrases turned a room full of stuffed shirts into a room of stale laundry.

The first phrase, Desert Storm, had been marked for a standing ovation. Instead the words were met with silence. At first I thought the President's tendency to string sentences together with the word "and" was the cause. I rationalized: the Members did not hear him.

Then, when the second phrase—"Passive Losses"—set off a raucous round of

applause the entire scene changed before my eyes. The executive and legislative branches were in cahoots. Both had been lobbied heavily by the real estate industry and were answering the call.

I know the Finance Committee has worked hard on this bill. I know there are many good things in it. And, if its presentation followed a serious consideration of the new economic direction needed for America, I might reconsider my position.

The top priority of the American people is not selected tax incentives for legalistically defined transactions. Their top priority is jobs and economic security. Two of every three Americans are afraid they may lose their jobs this year. I seriously doubt that a similar percentage in Congress suffer the same terror. In fact, I have become convinced that job security in America is inversely proportional to job security in Congress. The best way to increase the former is to decrease the latter.

But if we are not ready to relinquish our posts, we should at least be willing to abandon any pretense that the tax bill before us will reduce the American people's economic insecurity. It won't, and it should not.

To increase economic security we should be focusing all of our attention on increasing American savings and investment. Our starting point should be our fiscal deficit. Just because President Bush is terrified of Pat Buchanan does not mean we should be too. One out of every \$7 spent at the Federal level goes to pay interest on the Nation's debt. One out of every \$4 we spend is borrowed money.

This means that 25 percent of every Federal check we write is paid for with new debt. One out of every \$4 we spend is an overdraft known as the deficit. Perhaps we should agree to set a good example as elected representatives by agreeing not to accept any Federal money that is borrowed, then the deficit might move higher on our priority list.

If we want to reduce economic insecurity we need to begin now the difficult and exciting process of economic conversion and renewal. Our Federal Government now resembles the dinosaur; it must adapt quickly or we Americans will face serious consequences. Our technology and training strategy is frighteningly inadequate to meet the economic challenges of tomorrow. Our top down health care financing and energy systems are both excessively wasteful; we will need real courage to reform both.

If we want to reduce economic insecurity we must put the appalling status of our children at the top of our list. There is a war going on in our streets and we are losing it badly. Crime takes its greatest toll today on those we can least afford to lose.

If we want to reduce economic insecurity we should take former President

Nixon's advice: We have an opportunity to convert old enemies into new customers. No jobs can be created unless someone has a product or a service to sell. And no sales are possible unless your customers have the money to make the purchase.

Now more than ever before international sales offer the greatest potential for new American jobs and income. Unfortunately, Pat Buchanan has converted our former foreign policy President into a man with a bunker mentality. Now is not the time to go on the defensive; now is the time for an economic assault.

Mr. President, it is not this bill that stinks, but rather the process of taking up a tax bill before we take up issues far more important.

#### STUDENT LOAN PROVISIONS

Mr. BIDEN. Mr. President, there is a provision of this tax bill that did not receive much attention during the Senate's debate, but is an important first step in improving the Federal Student Loan Program. I am referring to the self-reliance loan proposal—a new program of income-contingent student loans.

In 1987, I introduced legislation to replace the existing Guaranteed Student Loan [GSL] Program, now known as Stafford loans, with an income-contingent loan repayment system. I continue to support such an overhaul. The reason is simple: on graduation day, a diploma is not all that college students receive; over half of the students are also saddled with a huge IOU. Because the current GSL system requires students to repay their loan in 10 years—regardless of income—our young people are burdened with an enormous debt. That burden is imposed before they ever find their first job and is imposed during the lowest earning years of their lives. This not only hurts students from lower middle-class families, but it also unnecessarily pushes our young people to pursue high-paying careers.

While there is certainly nothing wrong with pursuing a career that draws a large paycheck, there are thousands of young people who might choose equally worthy—but lower-paying alternatives—except for their student loan repayment burden. The spirit of service to community and country is not, contrary to popular myth, dead amongst our young people. But it is no secret that teachers, nurses, law enforcement officers, and social workers are not well paid. And, many of those young people who would like to serve society cannot do so because of their need to repay student loans.

Under the income-contingent loan repayment system in this bill, however, the amount of a person's loan repayment would depend on his or her post-graduation income. Therefore, those who chose a low-paying public service job would not be penalized. Their year-

ly repayment burden would be less than that for a high-income earner who can afford a far higher repayment schedule. Such a system will allow our young people to choose careers based on interest and social value rather than on loan repayment amounts. And, that's as it should be.

So, I welcome, and I strongly support, this proposal.

However, Mr. President, because of my long-time advocacy of an income-contingent student loan system, I have a few concerns about the details of this particular proposal. First, the Self-Reliance Loan Program, in addition to being an income-contingent approach, involves direct loans from the Federal Government. Direct loans, which do not involve the lending institutions that now participate in the GSL Program, are not a required component of an income-contingent approach.

My 1987 legislation would have required the Department of Education to report to Congress on the best mechanism for financing an income-contingent loan system. I am not yet convinced that the direct loan approach is the best way to go. My questions about a direct loan program involve not only the effect it would have on lending institutions, but also the burden it may impose on institutions of higher education. Perhaps this program will answer those questions.

Second, I support a more progressive repayment scheme than is contained in this proposal. Under the Self-Reliance Loan Program, Repayment will still depend, in part, on the amount borrowed. For those with low indebtedness, repayment would be 3, 5, or 7 percent of income. For middle-level borrowers, the repayment rate would be either 5 or 7 percent of income. And for those who borrowed a large amount of money, repayment would be 7 percent of income.

While this does not violate the underlying principle of an income-contingent loan repayment system—where repayment is a percentage of income rather than a fixed sum based on the amount borrowed—it still remains somewhat regressive. I would prefer to see a higher repayment percentage not for those who borrowed more while in school—as the current proposal does—but for those who earn more after school. Like the Tax Code, the higher one's income, the higher the repayment percentage should be.

Finally, while I have supported a complete overhaul of the student loan system, the self-reliance loan proposal included in this bill will be added to the existing student loan programs; it will not replace them. I understand the concerns about the need to test an income-contingent approach on a limited basis, so as not, at this time, to dismantle the entire structure of the existing system. I accept those concerns, and I welcome this as a first step. But,

I hope that is not all it will be. I look forward to the day when an income-contingent repayment system is the basis for all Federal student loans.

Mr. President, our country faces serious economic problems. The slow growth and recession of the past few years and the challenges facing the economic future of the United States call for a comprehensive response.

These problems will require a program for economic stimulus that will pull us out of the present slump and put Americans back to work. They will also require a plan to guide us into a new world economy, a plan that will restore Americans' waning faith in the future.

Today, by passing the Tax Fairness and Economic Growth Act, the Senate has taken a first step to address those issues. This bill would restore a degree of equity to a Tax Code that in recent years has placed the greatest burdens on middle and lower income Americans while the top 1 percent has kept almost all the gains from economic growth.

The bill would provide needed tax relief for millions of Americans. Homebuyers, homebuilders, families, farmers, blue-collar workers, small businesses from boat builders to restaurants, all could be helped by the step we have taken.

Just as significant, the Senate has included reforms in health care and educational assistance that are important down payments for the future wellbeing of the Nation.

The Senate made the tough choice to pay for this help, openly and honestly, in a way that does not add to the deficit burden that threatens the long-term health of our economy.

The Senate will pay for this help by asking a small number of Americans, those who by all measures benefitted the most during the past decade, to shoulder their fair share of the burden, to help us through this difficult time and into the future.

This legislation includes each of the points called for by the President in his economic plan, but his proposal not only includes tax and fee increases on average Americans, but would actually increase the Federal deficit. The Senate plan is paid for, and paid for fairly.

No one believes that this plan alone is adequate to the difficult task of economic transformation ahead of us. Nevertheless, it begins the process of formulating the more comprehensive plan that the American public expects and demands from its leaders, both in Congress and in the White House.

Mr. SPECTER. Mr. President, I am voting against this bill because it has developed into a party-line matter. As noted in my previous floor statements, I had urged my colleagues to put partisan politics aside and to negotiate on legislation aimed at providing an economic recovery for America.

Last November, I urged my colleagues to cancel our December and

January recesses to legislate on an economic recovery program. Shortly after the President's State of the Union Address, I urged my colleagues to cancel the February and March recesses to legislate on an economic recovery program.

The Democrats passed this tax bill out of the Finance Committee on party lines. The prevailing strategy has been that the Democrats would pass this bill along party lines, that the President would veto it and then serious negotiations would begin.

As noted in my previous floor statements, I urged that those negotiations begin last November or at least last week without the intervening delays.

There are many parts of this bill which I like. The bill contains the Specter-Domenici amendment to stimulate consumer purchasing power with limited use of individual retirement accounts. This bill contains important provisions to maintain health insurance coverage for retired mineworkers. This bill contains important provisions to stimulate an economic recovery with investment tax credits for homebuilders, recognition of passive losses and other stimuli for the economy.

Last week, a group of homebuilders from Pennsylvania came to visit me to urge passage of the Democrat tax bill even though they preferred the Dole substitute without the tax increase. The homebuilders reasoned that it was preferable to have the tax increases embodied in the Democrat proposal in order to take some action to stimulate the economy.

I regret that the Congress and the administration have not moved ahead in a bipartisan fashion on the important economic problems facing America. In this context of a party-line vote, I am constrained to vote no.

#### SPECIAL PENSION RULE FOR AIRLINE PILOTS

Mr. PACKWOOD. Mr. President, the committee substitute attempts to undermine current law pension rules requiring employers to offer retirement benefits on a nondiscriminatory basis.

The Tax Code and ERISA contain rules which require employers who provide pension plans to cover at least 70 percent of all employees. This insures that an employer cannot discriminate against rank and file employees.

In determining who must be covered, the Tax Code and ERISA contain a special rule that permits members of a collective-bargaining group to be covered by the negotiated plan without running afoul of the nondiscrimination rules.

Collectively bargained workers pensions should be separately treated because the bargaining is an arms length negotiation of the workers' entire compensation package. In a noncollectively bargained situation, rank and file pensions are set unilaterally by the employer.

The special rule is needed to prohibit employers from limiting collectively bargained benefits.

The framers of ERISA never intended that pension laws should undermine the collective-bargaining process.

The Democratic committee substitute would exempt pension of noncollectively bargained pilots from the discrimination rules. This would permit airline employers to discriminate against other rank-and-file workers.

If we permit this proposal to be enacted, the pension rules protecting rank and file from discrimination will be severely undermined. Other non-union employers will come to Congress to get a special exemption from the nondiscrimination rules certain categories of their employees. These employers will then be able to discriminate in favor of their highly paid employees and provide minimal benefits to rank and file.

I would like to ask unanimous consent to insert in the RECORD a letter from the chairmen of the relevant House committees of jurisdiction over this matter to the Speaker of the House, TOM FOLEY. The letter questions how the House Democratic tax package could include such a blatant antiunion measure when the Democratic party has historically opposed efforts to destroy collective bargaining.

I also understand that another letter is circulating from 30 to 40 Democratic Members of the House stating that they will not vote for any conference agreement on the tax bill that contains this provision.

I don't believe this special exemption is good tax policy, good pension policy, or good labor policy. When this bill is vetoed by the President, and if we take up tax proposals later this year, I hope my friends on both sides of the aisle who share my strong belief in the collective-bargaining process will join me in opposing any future attempts to pass this provision.

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

HOUSE OF REPRESENTATIVES,  
Washington, DC, February 24, 1992.

Hon. TOM FOLEY,  
Speaker,  
House of Representatives.

DEAR MR. SPEAKER: We are urging you to take whatever action is necessary to delete Section 4228 of H.R. 4287.

This provision, which amends a long standing tenet of law governing airline pilot pensions plans, undermines the collective bargaining process and should not be included in any legislative package that is labeled as a Democratic alternative. We don't believe that Democrats would ever support legislation that is being advanced at the request of one company, Federal Express, in order to dissuade its pilots from organizing for purposes of collective bargaining.

Under current law, airline pilot pension plans are exempt from the nondiscrimination rules of ERISA if and only if those bene-

fits come as a result of bona fide collective bargaining. Section 4228 would alter this 17 year old provision by removing the requirement that the benefits flow from the collective bargaining process.

The proponents of this suggested change would argue that this is a question of fairness. However, Federal Express, which is the only airline seeking this change, used this issue in its campaign to defeat the recent organizing efforts of their pilots. Throughout the campaign, the pilots were told repeatedly by management to reject the union, the Air Line Pilots Association, because Congress, at the company's request, would change the law, thus eliminating the need for better pension benefits. We do not believe that the Congress, particularly House Democrats, should be used in this manner.

It is sad to note that this blatant antiunion measure is not included in any of the proposals put forward by the Administration and our Republican colleagues, but rather is part of the alternative put forward by our party which historically has strongly opposed efforts to destroy collective bargaining.

We hope you share our concern and will see to it that this provision is removed before we are asked to vote for it.

Sincerely,

Pete Stark, Pat Williams, C.B. Rangel,  
William L. Clay, Norman Y. Mineta,  
Brian Donnelly, Jim Moody, Robert A.  
Roe, Jim Oberstar, William D. Ford.

Mr. KENNEDY. Mr. President, I want to strongly associate myself with the remarks of my friend from Oregon, the distinguished ranking member of the Finance Committee.

The section of this bill at issue here amends a 17-year-old provision in the minimum coverage rules governing private pensions. That provision contains an exemption for plans covering airline pilots that are negotiated through bona fide collective bargaining. The fact that this exemption currently covers only collectively bargained plans reflects important public policy considerations that were carefully considered during the legislative process leading to the passage of ERISA.

To prevent companies from setting up pension plans that favor the owners and managers over other employees, the minimum coverage rules require that a plan must cover either a prescribed percentage of employees or a class of employees that does not discriminate in favor of officers, stockholders, or highly compensated employees, who are presumed to be the persons who have control over fixing the terms of the plan.

The exemption for collectively bargained plans covering airline pilots reflects Congress' recognition that although unionized airline pilots may technically fall within the definition of "highly compensated employees," they are not part of the management group and should be free, like any other group of employees, to use the collective bargaining process to negotiate the terms of their own retirement plans. Through the collective bargaining process, their interests are protected against discriminatory actions

by employers and there is no need for the minimum coverage rules to apply.

Now suddenly, without benefit of hearings, debate, or the slightest consideration of the legislative history of the pilot exemption or the policy considerations that led to its creation, there suddenly appears, in this tax bill, a provision to extend the exemption to cover noncollectively bargained plans.

This provision has nothing to do with equity for taxpayers, or promoting economic growth, or any of the other goals we are supposed to be promoting in this bill.

This provision is here because pension benefits for certain airline pilots have become an issue in a union organizing campaign, and the employer believes that if Congress changes the pension laws, it will be easier for the employer to convince its employees not to vote for the union.

It is entirely inappropriate for Congress to be siding with an employer in an organizing campaign in which employees are exercising their statutory right to determine whether to be represented by a union. I want to assure my colleague from Oregon that I will work with him to ensure that this illconceived effort to use Congress as a pawn in the employer's campaign against the union is not enacted into law.

#### INCOME DEPENDENT EDUCATIONAL ASSISTANCE

Mrs. KASSEBAUM. Mr. President, I will vote in opposition to H.R. 4210 because I do not believe it will address the economic problems we now face—and, in fact, may do just the reverse. Moreover, I question whether it is possible to craft a sound tax package in the midst of the highly charged presidential campaign season.

Among the many concerns I have about this legislation is its establishment of a new income dependent education assistance loan program. Just last month the Senate approved legislation reauthorizing the Higher Education Act. That legislation was the product of well over a year of work on the part of the Labor and Human Resources Committee, and it was adopted by the full Senate with only one dissenting vote.

I believe the overwhelming support for this legislation was warranted, as it made significant steps toward strengthening program integrity, simplifying the process, and expanding aid to students. In particular, it increases the availability of loan assistance to students by increasing guaranteed student loan limits and by making supplemental loans for students [SLS] available to credit-worthy dependent students. These expansions were made within the framework of existing programs—rather than creating an entirely new program.

The new loan program proposed by this tax bill incorporates the concepts of direct lending, income-dependent re-

payment, and IRS loan collection. Although these general ideas have been around for some time, we have never gone beyond the surface appeal of these notions. The substantial philosophical, budgetary, and pragmatic problems with them have been either glossed over or lightly dismissed as being the self-serving cries of vested interests. The debate over a proposal with profound implications in areas including student indebtedness, college costs, Federal debt and obligations, and the integrity of student aid programs deserves far better than this.

The proposal included in this legislation simply has not received the type of scrutiny which is needed to offer confidence that it could be properly implemented. Any idea requires careful thought and planning to be put into successful practice.

It seems to me that we need the answers to several fundamental questions before proceeding in this direction. We need to give far more thought to the feasibility and desirability of institutions of higher education taking on a program which has them originating loans, submitting monthly lists of borrowers, reporting changes in enrollment status, transferring promissory notes, and counseling borrowers on complicated income-tax-based repayment options.

We also need to take a very close look at the capacity of the Department of Education to undertake supervision of an entirely new loan program, while administering all other existing aid programs. The Department is undertaking a long-needed revamping of its management of student aid programs. It is ironic to consider that, at the point when some of the improvements are starting to show results, we would be initiating a whole new set of potential problems. This proposal calls for the Department to conduct extensive tracking of self-reliance loan borrowers, to calculate their loan obligations, to establish a process for resolving disputes regarding those obligations, to devise repayment options, and to report all of this information to the Internal Revenue Service.

Many issues resolve around Internal Revenue Service involvement. It is my understanding that it would take a minimum of 5 years for the agency to be in a position to assume student loan collection responsibilities. At the same time we are making every effort to simplify student aid forms, we would be creating a nightmare for any borrower trying to submit a W-4 form or decipher a 1040.

Moreover, at a time when we worry about the accumulation of consumer debt, we are making it as attractive as possible for students to borrow even more. The notion of paying up to 7 percent of one's adjusted gross income for up to 25 years after graduation is an abstract notion at best to an 18-year-

old entering college. This proposal makes no recognition at all that families able to do so should contribute to the education of their children. It makes it easier as well for colleges to raise their costs.

In short, I do not believe we are anywhere near being in a position to start up a new loan program of this nature. The questions I have raised are serious ones, and they must be adequately addressed before, not after, any new program is created.

Mr. MURKOWSKI. Mr. President, I rise today with a profound sense of regret. Mr. President, we should be speaking today about the best way to get this country moving again and to get the American people back to work. Instead, as everyone in this Chamber knows, and as everyone in the country knows, we are engaging in an empty debate. A debate over a bill that will go nowhere. Yes, there are good features in this bill but there are also features designed to serve as nothing more than partisan wedges; designed to pit constituency against constituency, American against American. Mr. President I do not know if that sort of partisan bickering is something that any Senator believes is helpful to our country but I can say this Senator, like the Alaskans I have heard from, expected more.

More, Mr. President, that would address the fact that last year, when thirty cents of the average American's dollar went to Federal taxes, the Government was still in the red by \$348 billion. More, Mr. President, when the average American saves 6.7 percent of income while the average Englishman saves 9.8 percent, the average German saves 12.8 percent, and the average Japanese saves 18.4 percent. More, Mr. President, when the national debt of our country now exceeds \$4 trillion. And what are we debating on the floor of the U.S. Senate? A bill that every Member of this body knows is going nowhere.

Mr. President, that is not to say there are not useful provisions in this bill. In fact, there is a great deal in this bill that could help get this country moving again. I strongly support the provisions dealing with Individual Retirement Accounts. The restoration of the fully deductible IRA is crucial to encourage Americans to save more of their earnings. Individual Americans already do far better than their Government in balancing their budgets but they do so in spite of a tax system that does far too much to discourage saving and investment. The IRA restoration is an important step back to a system which encourages long-term savings.

#### MIDDLE-CLASS TAX RELIEF

This bill also provides some badly needed tax relief for the middle class. Thirty cents of every dollar for Federal taxes is simple to much. I would hope all of my colleagues would agree that

the fiscal problems of our Nation are not the result of the middle class paying too little in taxes. Middle class taxpayers have borne the brunt of the tax and spend policies that have become so popular inside the Beltway. What the tax and spend crowd must come to understand is that the middle class is the goose that laid the golden egg. The middle class is the engine that drives this Nation's economy and excessive taxation and regulation will stall this engine.

That said, Mr. President, I would prefer a bill that would follow the President's recommendation and increase the personal exemption by \$500 for all rather than this bill which only provides a \$300 tax credit for some. Estimates show that the \$300 tax credit does not provide benefits to over 40 percent of American families with children under 19 years old. In future tax legislation I hope my colleagues will alter the middle class tax cut provisions to utilize the increase in personal exemption approach outlined in the President's plan.

#### HOME TAX CREDIT

Mr. President, this bill's provision of a tax credit for first-time home purchasers is also important. The real estate market in this country has been in the doldrums for far too long now, and this provision will not only stimulate the economy but it will give a badly needed break to those young, and maybe not so young, Americans trying to buy their first home. For most Americans, buying a first home is the fulfillment of the American dream. We need a tax policy that fosters these dreams.

Once again, Mr. President, I would rather see the President's proposal than this one because the President does not limit the credit to those who are buying new homes. Estimates show that less than 20 percent of first time home buyers will be able to take advantage of the credit as currently drafted. In my view, all sectors of the real estate market need help and, more importantly, all Americans buying their first home need help, not just those buying newly constructed homes. But, again, I could support this provision because it is a step in the right direction.

#### TAX INCREASED

Mr. President, while I support these important provisions I cannot support passage of this bill because this bill needlessly raises taxes. The bill's supporters say that it only raises taxes on the rich, and I agree that everyone in this country should pay their fair share. But let's look a little more closely at the Democratic plan. Mr. President, the Democratic plan raises taxes by \$100 billion. Two-thirds of those who will bear the brunt of these tax increases are small business men and women. Some 95 percent of the private sector jobs in my State of Alaska

are created by small businesses. Those people are having it tough enough as it is; I will not be a part of making it tougher.

Mr. President, we have been on this tax train before. First, raise the taxes on the so-called wealthy and then I can assure you that the tax raisers will be back. The Democrats in the House define "wealthy" as those that earn \$85,000. And the tax-and-spend crowd have never been satisfied with one tax raise, they always come back for another and another. They will tax the top and the middle and the bottom and they will think of new ways to tax that boggle the imagination and stagger the spirit. I will not let this train of taxation leave the station. I will vote no on this bill and any other bill that raises taxes.

#### CAPITAL GAINS

And then there is capital gains. The opponents of capital gains tax relief like to call it a tax break for the rich. Mr. President, investment levels in this country are lower than they are in Canada, or France, or Germany, or Japan. And, Mr. President, capital gains tax rates in all of those countries are lower than ours. This is not rocket science, Mr. President. High capital gains tax rates bog down investment and cost this country jobs. The bill we are debating today, while it offers capital gains relief in name, is just too weak to support. To those in this Chamber who support this halfway bill, I say ask your constituents if they want halfway growth. Halfway jobs. We need real capital gains tax relief that will encourage long-term investment and stimulate the economy.

#### BUDGET IMPACT

Finally, Mr. President, this bill increases the budget deficit. Even with the tomfoolery that we all know goes on with revenue estimates, this bill still shows an increase in the budget deficit for fiscal year 1992 and 1993 and after that who knows. And if that happens, if the budget deficit is increased, OMB projects that a \$4 billion pay-as-you-go sequester would be mandated. If a sequester is required, the Government will have to make across-the-board cuts in programs ranging from veterans' homes to unemployment benefits to Medicare. So what will we be left with? We will be left with a bill that has the dubious distinction of raising taxes, breaking the budget, and stealing from crucial domestic programs.

#### CONCLUSION

Mr. President, as we all know, this bill is going nowhere. This bill was drafted to be vetoed by the President and the President will correctly do so. This halfway bill simply does not deserve to become law. There are several amendments that this Senator is interested in offering but I will withhold these amendments until this body is

serious about passing a tax bill. We will all have the opportunity to revisit these issues after the veto and I sincerely hope that at that time this body will come together in the spirit of compromise and pass meaningful tax legislation. I believe that we can do it, Mr. President, and I look forward to putting this bill behind us and moving forward to a real growth package.

#### OPPOSE ROCKEFELLER COAL TAX AMENDMENT

Mr. McCONNELL. Mr. President, I rise in opposition to a provision in the Democratic tax package that would impose a new tax on coal production. This provision—politically contrived and outrageously unfair to Kentucky coal—is simply unacceptable.

The question before us, Mr. President, is not who among us is most concerned with the health care needs of UMW retirees. Every Member of this body is concerned and wants the issue settled. The question, Mr. President, is whether or not the solution proposed by the Senator from West Virginia is the right solution.

The problem is fairly simple: for a variety of reasons, the health benefits fund for retired union coal miners may be running out of money.

The solution originally proposed would have recapitalized the health fund with a tax on all coal production in the United States—union and non-union. This approach was justified by the claim that the ailing UMW health fund is an industrywide problem, and therefore needs an industrywide solution.

Whether you agree with that proposition or not, the proposal before us today is clearly not an industrywide solution.

This proposal, a deal cut in the Finance Committee, exempts from taxation most coal produced west of the Mississippi. No coal mined in Texas would be taxed. No coal produced in Montana would be taxed. Lignite and subbituminous coal are not taxed. What happened to the industrywide solution to an industrywide problem? It appears to this Senator that what was really needed was a political solution to a political problem facing Democrats on the Finance Committee.

Beyond discriminating between eastern and western coal, the fundamentals of this provision troubled me.

In Kentucky, only about 20 percent of the coal is produced by union companies, and only about 15 percent of Kentucky miners are union. Eighty-five percent of my miners never had had, and probably never will have, any association with the UMW or its health fund. And yet the Senator from West Virginia wants to take 99 cents directly from the pockets of those miners, every single hour they work, to bail out that health fund.

This approach would cost MAPCO coal, which employs a thousand non-union workers in my State, over two

million dollars per year. It would cost Pike County Coal and Wolf Creek Coal, who between them employ 1,000 non-union Kentuckians, over \$2.5 million per year. The list of examples of how miners and coal companies in my State, that would be hurt by this provision goes on and on.

This provision is loaded with other problems: It is GATT illegal and could provoke retaliation by our trading partners. It raises the cost of electricity to middle-class families, and it sets a questionable precedent for future labor-management negotiations.

Mr. President, I firmly believe a solution to this problem is needed. UMW miners have been promised lifetime health benefits by their BCOA employers, and now it appears that promise may not be kept. The 15,000 UMW retirees in Kentucky have a right to be upset.

A large chunk of the problem may already have been taken care of. A recent court decision by Judge Thomas Hogan, U.S. District Court for the District of Columbia, will require every company which has signed a National Bituminous Coal Wage Agreement since 1978, to pay for retiree health care benefits. That's a major step toward a solution.

However, the solution proposed by the Senator from West Virginia is born of political necessity and is unacceptable. There are many reasons why President Bush should veto this entire Democratic tax package, but, in the opinion of this Senator, the Rockefeller provision alone is grounds for a veto.

When the President issued his tough March 20 deadline, in his State of the Union Address back in January, I must admit I was a bit apprehensive.

I thought, surely the other side is going to come back with a deal the President cannot refuse, laced with some poison he cannot swallow.

I thought the other side's plan would be so fiendishly clever that we would have no choice but to capitulate on their terms.

But I must admit, I never guessed that the other side would respond with humor. Talk about a sneak attack—no one could have predicted that the other side would come up with a funny bill.

How else can you describe a bill that raises taxes by \$65 billion over the next 5 years?

How else can you describe a bill that busts open the Federal deficit?

What other response can there be to a bill that would almost certainly trigger a massive sequester and a \$3 billion cut in Medicare?

This bill is not veto bait, it's "Tonight Show" material.

I keep waiting for the other side to break out in laughter and say, hey—we were just kidding. Here's the real economic growth package.

Maybe they're waiting for April 1 to do that.

In the meantime, this is the so-called economic growth package we have to deal with. So let us take a good look at this bill, Mr. President.

The only kind of person who could seriously call this a growth package is someone who lisps.

This is a gross package, Mr. President. It is a gross misrepresentation being made to the American public that this bill has anything to do with growth.

We need jobs, Mr. President. So what does this bill do? It raises taxes. Why is it, that whenever there's a problem, the answer from the other side is always to raise taxes?

Worst of all, this bill raises taxes specifically on those who are most likely to create new jobs: owners and operators of small businesses. Nearly two-thirds of those who will bear the brunt of this gigantic tax increase are small business people—the creators of new jobs and the backbone of our economy.

If this bill passes, it will tax away the earnings of successful, competitive small enterprises—earnings that could instead be plowed back into new products, new jobs, and new technologies.

Now, I do not want to give the impression that this bill is antigrowth in every respect. There is one area in which the other side's package is strongly progrowth. That area is the Federal deficit.

The other side claims that this package is paid for by a revenue surplus scored by CBO. In other words, the check is in the mail. The truth is that this so-called surplus has already been used up by the two recent unemployment bills.

As a result, this bill will massively increase the Federal deficit, triggering an end-of-season sequester in the billions of dollars.

What will that mean? It will mean devastating cuts in Medicare, unemployment compensation, crop payment to farmers, and social services block grants to States.

When you read through this bill, it sounds more and more like one of those "Top Ten Lists" from David Letterman: "Top Ten Terrible Things That Congress Could Do to the Economy." Or "Top Ten Reasons Why We Should Have Shorter Legislative Sessions."

Is there anything in this bill worth supporting? Of course there is. But these few decent morsels remind me of mushrooms—you can appreciate them only as long as you try to forget where they came from.

Take the \$300 tax credit for working families. This amounts to under a dollar a day in tax relief. The President's assignment to Congress was to pass a progrowth tax package and what the other side ends up doing is passing the buck, literally.

They pass the buck, one buck a day, to America's working families.

Then, after giving with one hand, this bill takes away with the other. For example, it repeals the toddler tax credit for low-income working families that we passed as part of the child care bill.

This bill imposes a surtax on coal, in order to bail out a UMW health care plan. That may be an honorable goal, but the way it is constructed will eventually put thousands of Kentucky miners out of work—no job, no health care, nothing.

This bill also slaps a tax increase on imported minivans, which will almost certainly drive up prices on both imported and domestic minivans.

Minivans happen to be the vehicle of choice for young working families, the modern version of the station wagon.

So, Middle America, you'd better save that buck a day because this bill is going to take it out of your hides in a lot of other ingenious ways.

What should we do with this bill? We had better not ask the American taxpayer that question.

I recommend that we send this bill to Jay Leno; let him use it as a source of comedy material; and then we ought to get serious about improving the economic situation in this country.

First of all, we need a meaningful capital gains tax reduction—not an accountant's boondoggle.

Second, we need a first-time home buyer's tax credit that both stimulates new construction and brings up the value of existing property.

We need tax incentives to promote investment and growth—not tax increases that will only stifle economic growth.

Mr. LEVIN. Mr. President, I am voting for this tax legislation today, not because it is a finished masterpiece, but because it is a needed work-in-progress. I am still hopeful that either the bill which emerges from conference or the bill which may emerge after the Presidential veto will take a significant amount of the revenue raised from taxing the wealthiest seven-tenths of 1 percent of the taxpayers and direct it toward deficit reduction.

I believe that reducing the Federal budget deficit is more important to the children of our country than the relatively modest benefit that will be available to them through the \$300 child tax credit contained in this bill. To quote from the Congressional Budget Office:

The deficit is likely to exceed \$200 billion for the foreseeable future and move higher toward the end of the 1990's. Deficits of those magnitudes cripple economic growth by reducing national saving and capital formation.

That is why I offered an amendment during the debate to strike the \$300 per child tax credit and to use 75 percent of the money freed up for reducing the budget deficit and 25 percent for more investment in job training and trans-

portation infrastructure. While the passage of the Levin-Graham amendment would not have transformed this bill into a masterpiece, nevertheless, would have made it a better bill than the one we are voting on today.

This bill starts off from a good foundation. The increase in the top marginal income tax rate from 31 to 36 percent and the surcharge for incomes over \$1 million are essential steps in improving the fairness of the Tax Code. These provisions recognize that during the 1980's the top 1 percent of the taxpayers saw their after-tax incomes almost double, from \$213,000 to \$399,000. These taxpayers saw their share of the national income increase twice as much as the share of their tax burden.

This legislation also expands the eligibility for individual retirement accounts, reversing the mistake of the 1986 Tax Reform Act. At the same time, it allows greater flexibility for the removal of funds from IRA's for first-time home purchases, educational expenses, automobiles, and the unemployed. It also includes a tax credit for the first time purchase of newly constructed houses, although I would prefer the tax credit apply to both existing and new housing.

The extension of the research and development tax credit, the targeted jobs tax credit, the increased depreciation deductions for new investment in equipment, and the incentives for new investment in startup companies are growth oriented and good provisions. In addition, this legislation includes a number of interim reforms of our health care system that will improve access and affordability while we are working on developing a consensus for a more comprehensive solution.

We could have had these positive elements of the bill and others and also had almost \$22 billion in deficit reduction if this bill did not include the tax credit, which will assist only 25 percent of middle-income families. I think we should help all middle-income families, and the best way to do that is to build the foundation for a healthy and expanding economy. It is not with the knowledge of what this bill is, but with the hope of what it could become that I will vote for final passage.

INCENTIVES FOR ECONOMIC GROWTH AND TAX  
RELIEF FOR FAMILIES

Mr. GLENN. Mr. President, I rise in support of the bill reported by the Senate Finance Committee. Although some had difficulty in recognizing this recession, everyone is now more than aware of the economic slump. The Bureau of Labor Statistics reports the national unemployment rate is now 7.3 percent, a 6-year high. Other economic indicators show a decline in after tax per capita income for only the second time since World War II. Housing starts—the lowest since 1945, factory orders down 4.6 percent—the worst decline since 1982, 88,000 business failures.

By the time of the State of Union Message, the President was ready to propose an economic recovery program. The Senate Finance Committee has included modified versions of all seven of the President's key proposals.

Although some people have criticized this plan Mr. President, this bill is important in Ohio. People in my State believe that they have been paying more and getting less. They are having trouble making ends meet. For median income families of four this bill provides \$600, a 25 percent reduction in their Federal income tax. Perhaps this is not much money in Washington, DC, but in Washington Court House, OH, or Youngstown or Toledo it makes a difference. For families who are making ends meet, it makes a big difference.

This plan is constrained by our budget deficit. I have no doubt that without a \$3 trillion national debt and a \$400 billion deficit, we would be here today with a much more ambitious relief proposal. But this bill will not increase the deficit. By increasing rates on taxable income over \$150,000, by placing a 10 percent surtax on taxable incomes over \$1 million, and by limiting the corporate deduction for salaries over \$1 million, this legislation will not increase our budget deficit.

This bill includes an important provision that I am pleased to have cosponsored, the reestablishment of the deduction for contributions to individual retirement accounts [IRA's]. I believe this is a valuable incentive to save and to provide for one's own retirement. Furthermore, this provision would provide penalty-free withdrawals for serious medical expenses, educational expenses, and for first-time home buyers.

In addition to IRA use by first-time homebuyers, this bill assists the real estate industry which often leads our economy out of recession. The bill provides a \$5,000 tax credit for first-time homebuyers, allows passive losses relief for real estate developers, allows pension funds to invest in real estate, extends the low-income housing tax credit and extends the mortgage revenue bonds and certificate programs. I believe these incentives will help many families with the American dream of home ownership.

The bill provides for long-term investment by assisting students in their education. Provisions include the deductibility of interest on students loans, extension of the tax exclusion for employer-provided education, and modifications to the educational savings bond program.

Certainly, middle-class American families will feel the immediate benefit of this legislation. But American businesses will also receive tax incentives. Several incentives were proposed by the President including a capital gains provision. This bill repeals the luxury tax on boats, airplanes, jewelry, and furs. The bill creates a new income tax

credit for employers for FICA taxes paid on employee tip income. The important research and experimentation tax credit is extended.

Although this legislation provides many incentives for economic growth, I believe that several disincentives remain in the Tax Code that may disadvantage American industry. It is my understanding that the Treasury Department has reported that the economic life of business-use passenger cars is 3.5 to 3.8 years, yet automobiles are classified in the 5-year depreciation category as opposed to the 3-year category. Furthermore, an owner of a business-use automobile is limited to \$12,660 in depreciation over 5-years. No other business assets are subject to a depreciation cap. Domestic manufacturers produce 95 percent of business-use vehicles. Eliminating these disincentives would have a beneficial impact on the domestic auto industry and I would hope could receive attention as this bill is further considered.

Mr. President, this bill provides tax relief for middle-class families, stimulates economic growth for jobs, improves tax equity and fairness, and extends educational opportunities. I support the passage of this legislation.

Mr. KENNEDY. Mr. President, with the passage of this bill, we take an important step forward in correcting the tax inequities of the Reagan-Bush years. This legislation will provide tax relief for middle-income families; assistance to first-time home buyers; and expand the earned income tax credit for low-income families with children. In addition, the legislation extends important incentives for low-income housing construction, for employers to provide educational benefits to their workers, and for alternative energy.

The legislation accomplishes these goals in a fair and responsible way—by raising taxes on the wealthy, who benefited so disproportionately from the Reagan-Bush tax cut bonanzas. The President says he will veto the legislation because of these tax increases. More than anything, that should tell the American people who is on their side.

This legislation does raise taxes—on less than 1 percent of the wealthiest American families—and it places a surtax on millionaires. This is a first step toward reducing the economic injustices of recent years. From 1977 to 1989, the top 1 percent of Americans received 77 percent of the income growth; 40 percent of American taxpayers actually lost income during those years.

President Bush wants to protect this tiny sliver of the wealthiest Americans and millionaires, while canceling any tax relief for the middle-class and working Americans. The President says that we should avoid class warfare. Well, as the income numbers show all too graphically, we had class warfare during the 1980's. And the wealthy

won. Under Generals Reagan and Bush, the middle class and working Americans have been subjected to class war, and they were the losers.

This legislation is a downpayment on redressing that situation. More must be done. We must invest the peace dividend in America's critical needs in education, health care, job creation, and worker training. We must get this economy moving, and make the long-term investments needed so that all families can share the American dream.

Many of us would have liked to include greater economic stimulus and more long-term investments as part of this legislation. But that was not possible given the extraordinary public relations assault that the President is advancing against this bill.

As a result, additional legislation is needed to meet our other critical economic and social needs. We have met the President's challenge; if he vetoes this bill in order to protect his millionaire friends, so be it. The American people will know who is responsible.

This legislation does take some important steps in addition to tax fairness. It makes improvements in our inadequate health care system. It contains provisions to help students and working families finance their college educations. And it begins to bring some order to occupational and training standards, so American workers can be trained to world-class standards.

In particular, I commend Senator BENTSEN for including health care reforms in this legislation. The most important of these measures will reform the market for health insurance sold to small businesses and limit the pernicious practice of excluding preexisting health conditions from the scope of insurance coverage.

These reforms are long overdue. It has been clear for many years that the private insurance market is becoming a disaster area for small businesses and their employees.

Conditions have worsened rather than improved in recent years. Americans are increasingly concerned that if they change jobs—and even if they move to a business that covers its employees—unfair exclusions can leave them unprotected against the devastating cost of serious illness.

The health provisions of the tax bill will correct some of the worst of these abuses. Each state will have to assure that coverage is available for every small business to insure its workers. The ability to raise prices at renewal time for businesses with workers who have developed costly illnesses will be limited, and the ability to set prices based on the health condition of employees will also be limited. Most important, employed Americans will no longer be subjected to preexisting condition exclusions.

But while these proposals are an important first step toward a solution to

the health care crisis, as Senator BENTSEN has recognized, they are no substitute for the comprehensive reform that is needed to meet two fundamental tests. It must guarantee adequate, affordable health insurance coverage for every American and it must impose strict controls on rising health costs. The American people deserve action on a comprehensive program and I look forward to working with Senator BENTSEN and Majority Leader MITCHELL and many other Senators to ensure that the Senate takes action this year on the kind of bold program needed to deal responsibly with the health care crisis.

The legislation also expands educational opportunity. We all know that education is the Nation's best hope for long-term social and economic progress. This bill, coupled with the Higher Education Act that has already passed the Senate, makes a major contribution to greater educational opportunity.

The legislation establishes a demonstration loan program, the Income Dependent Education Assistance Program, which will involve schools in direct administration of a supplemental student loan program. Borrowers will get a favorable interest rate, and loans will be repaid after graduation through the Internal Revenue Service.

If the demonstration program succeeds, I am confident that Congress will seek to expand it. A successful direct loan program could be of great value to students and families in financing higher education.

There are several other important education provisions in this bill. First, the legislation reestablishes the tax deductibility of interest on student loans, which will be a great help to young men and women struggling with the costs of educational borrowing. Second, the bill allows penalty-free withdrawals from IRA's to help finance education. Finally, the bill expands the eligibility for the Education Savings Bond Program, which invests in savings bonds for children's college education.

Finally, the legislation contains an important first step in advancing the goal of creating a more effective job system in the United States. There is a pilot training program for high school students to expose them to career options. And tied to that program is the development of world-class, nationally-recognized occupational standards.

Developing these standards is one of the principal recommendations of "America's Choice: High Skills or Low Wages," a bipartisan report from the commission co-chaired by former Labor Secretaries Ray Marshall and Bill Brock. Along with Senator HATFIELD, I have introduced S. 1790—the High Skills, Competitive Workforce Act—to implement the sweeping recommendations of this report. In the

coming months, we will be pressing forward with this comprehensive legislation, which includes school-to-work transition programs, encouragement for businesses to provide training for their front-line workers, and incentives for State and local governments to revise their employment and training systems.

This current tax legislation represents an important step forward in reaching all of these important goals—tax fairness, health care, education, and job training. If the President carries out his threatened veto, he will once again tell Americans that he stands with the millionaires and the wealthiest 1 percent of families, and against the best interests of all other citizens. The American people will judge accordingly.

#### ECONOMIC RECOVERY

Mr. LAUTENBERG. Mr. President, I have decided to vote in favor of this legislation. I do not think it is going to work miracles. And, it seems very likely that the President will veto it. However, I don't believe it is necessarily an exercise in futility. It includes provisions with real promise to make a difference to the economy and to average Americans trying to make their way through this difficult time.

Mr. President, the national economy is in the dumps. The American people want action. I am tired of living with Government by veto threat. We represent the people. It is our responsibility to move forward and then the President will have to decide whether to veto this bill, or work with us to enact a bill to help the American people.

We have serious economic problems, Mr. President. We need to get on with it. It is going to take action on many fronts, over a period of time, both inside and outside of government, to revive our economic health and restore our economic leadership in the world.

The American people are hurting. They want economic recovery. Our job is to do our best to put in place the programs that can help us reach our goals.

The Congress and the President need to take action on many fronts to get America's economy repaired.

We need to provide a shot in the arm to this sick economy. We need to create incentives for long-term growth. We need to bring fairness back to our tax system. We need to get tougher on trade issues, insisting on reciprocal access to foreign markets and protection of our inventions from piracy abroad. We need to get health care costs under control, and provide access to affordable health care to our people and businesses. And, we must begin to reduce the deficit that is mortgaging our children's future.

The President set a deadline of March 20 for enactment of the package before us. We will come close to meet-

ing that deadline, if we do not hit it on the head. But, what is the President saying? He is sitting in the White House, continuing to govern by veto threat. He tells the Congress: "I'll veto your tax bill if I don't get exactly what I want." Mr. President, we need cooperation between the Congress and the President, not confrontation.

The tax legislation we are considering today is not perfect, but it is a step forward in reaching our goals.

It provides meaningful tax cuts to millions of working American families.

It builds in incentives for research, development, investment and risk-taking.

It will help Americans buy and own their own homes.

It will encourage long-term savings for retirement, education, and unexpected health care costs.

It will improve America's ability to pay for health care.

It will also begin to restore fairness to our Tax Code.

These are proposals that will, on balance, help New Jersey and the Nation.

The \$5,000 credit for first-time home purchases will help Americans struggling to buy their first home, and stimulate the sluggish housing market as well. While the credit would have a much more significant effect if it applied to existing homes, this at least is a positive step in the right direction.

The provisions that restore the deductibility of contributions to individual retirement accounts [IRA's] for all taxpayers also deserve mention. I am a cosponsor of the legislation on which these provisions were based, S. 612, and testified on behalf of the bill before the Finance Committee last year. The savings rate in this country is too low. If we can increase that rate, we will have substantially strengthened our economy in the long run. We will also be helping people prepare for a secure retirement.

The bill also contains several provisions to help Americans invest in their Nation's future by making it easier to get a higher education and to obtain health insurance. The bill provides a deduction or credit for the interest paid on student loans, helping to ease the burden of financing higher education.

It also contains a demonstration program to give loans to students regardless of family income. Under the new program, the Federal Government would provide the money for the loans directly to a school to help pay for a student's tuition. Any student could borrow up to \$5,000 a year as an undergraduate and \$15,000 a year as a graduate student. This provision, crafted by my distinguished colleague from New Jersey, Senator BRADLEY, could open the doors of higher education to Americans at all income levels and all ages.

I also support the health care provisions in this bill which would reshape,

through Federal regulation, the private insurance market for small businesses so they can better afford to provide insurance to their employees.

H.R. 4210 would limit the cost of health insurance policies for businesses with 50 employees or less and prohibit insurers from denying coverage to employees or their dependents because of claims histories or preexisting conditions. H.R. 4210 would also allow self-employed individuals to deduct 100 percent of the costs of their health insurance from their income instead of the current 25 percent.

While I strongly support more comprehensive reform of our Nation's health care system, I think these provisions are a good first step in that direction.

In addition, the bill provides for the extension of several important expiring tax provisions. These include the low-income housing tax credit, which is being used very effectively by community-based groups around the country to provide affordable housing, the mortgage revenue bond program, which provides valuable assistance to first-time home buyers, and the research and development tax credit, which promotes the long-term investment so badly needed throughout our economy.

Finally, this bill begins to restore fairness to our tax system. Since 1977, taxes on the richest 1 percent of Americans have gone down by 18 percent, while taxes for the middle fifth of American families have increased.

While their tax burden has been going up, the middle class' after-tax income has been stagnant or declined. After-tax family incomes for middle-income families dropped by 8 percent since 1977, whereas the top 1 percent, with average incomes of over \$675,000, have seen their after-tax incomes increase by 136 percent.

Under current law, a family with an income of \$500,000 pays taxes at the same rate as one that makes \$90,000. That just isn't fair.

Under this bill, Mr. President, families with gross incomes in excess of \$200,000 will pay at a higher rate and those with incomes in excess of \$1,000,000 will pay even more.

In return, middle class families will get a tax break that can make a real difference for families struggling to pay their bills and keep their heads above water.

Mr. President, while not a perfect piece of legislation, this is a good bill. But it is only the beginning. The next step is to revise the 1990 budget agreement which is now outdated.

I opposed the budget agreement in 1990 in part because I felt it would lead to excessive and wasteful defense spending. This legislation locked us into levels of spending for defense programs, for 3 years, at very high levels. I was in the minority in my opposition at the time. But by now it is clear that

the agreement is obsolete. By blocking funding shifts between defense and domestic programs, the agreement is freezing into place the misplaced priorities of an earlier era.

The world was a very different place in 1990. While dramatic change was already well underway in the Soviet Union, many in the United States still feared that country, and still thought in cold war terms. Today, of course, the Soviet Union doesn't even exist. The cold war is in our past.

Yet, Mr. President, while the world around us has changed so dramatically, our budget priorities remain in a time warp. We are still spending close to \$300 billion a year on defense. We still spend billions defending our European allies from a threat that most believe no longer exists. And we still are committed to a range of weapons programs that serve no useful purpose.

Meanwhile, our needs here at home are greater than ever. Our economy is in the longest recession since the Great Depression. Unemployment is over 7 percent. And ordinary, middle class Americans are finding it increasingly hard to pay their bills, send their kids to college, and make ends meet.

Mr. President, a primary reason why our economy is having trouble is that, for years, we have underinvested in our future. While our competitors have invested substantial sums in their infrastructure, and the education and training of their people, we have not. And we will be paying the price of that neglect for decades to come.

We need to focus on America's needs and America's future. That's going to require us to fundamentally reshape our priorities. More specifically, it is going to require us to spend considerably less on the defense of our allies and on outdated weapons systems, and considerably more on initiatives, like education and infrastructure, that will yield long-term dividends.

We must invest more in infrastructure because there are few things more critical to a sound economy, to job creation, to a solid and growing middle class, and to our economic standing in the world, than investment in infrastructure and transportation. Investing in infrastructure goes beyond just building new roads and highways. It means higher output, higher productivity, and greater economic growth throughout the country. It means building for our future.

Mr. President, I hope the Congress will move on my start-up proposal, to increase spending this year on infrastructure projects. I introduced this bill in January, after surveying State transportation officials for ready-to-go infrastructure projects—roads, rails, aviation. According to DRI, the nationally recognized forecasting firm, my proposal would create 180,000 jobs over the next 24 months.

We must invest in training and retraining for American workers

throughout their careers. Because while American industry searches for skilled workers in Japan or Germany, we have legions of untrained, dispirited workers right here at home, desperate for jobs.

We must get tough on trade. To help American business remain competitive and to protect American jobs, we must ensure fair play by our trading partners, protect American technology and ideas, and redouble efforts to break down trade barriers. We must also support American manufacturing industries. American products are top-notch. Our domestic industries are not disadvantaged by fair foreign competition.

We also must invest in our children. Their health, education and welfare are the keys to our future quality of life. We have passed legislation to fund innovative new elementary and secondary schools, to increase access to higher education and to more fully fund successful education programs like Head Start. Despite our actions in these areas, our children's needs are still not being fully met.

We can have none of these things with our hands tied by an outdated budget agreement. If allowed to stand, that agreement will lead to continued excesses and waste in the Pentagon budget, and continue underinvestment in the economic foundation of our Nation.

With a revised agreement, we can better meet the needs at home and support the fledgling democracies abroad. And with economic recovery, we can begin to attack the budget deficit. For each 1 percent increase in unemployment beginning this January, the deficit next year would increase by \$50 billion.

Mr. President, this deficit must be brought under control. It imposes huge economic burdens on us today and on our children tomorrow. The bill before us now does not reduce the deficit but neither does it add to Government debt. This is in sharp contrast to the President's plan, earlier rejected by the Senate, that would have added \$27 billion of debt over 6 years.

This tax plan, combined with a more aggressive trade policy, a new budget agreement and a dramatic shift in Federal priorities, can speed our progress toward recovery and can place the Nation in a position to begin to tackle the deficit.

Today we can take the first step toward that goal. The President says "No." I say—"let us get on with it."

Mr. DODD. Mr. President, as we debate the economic growth package now before the Senate, I want to express my strong support for the health care reform provisions included by Chairman BENTSEN and the Finance Committee in this important legislation. As a co-sponsor of S. 1872, the measure that forms the basis for these proposals, I

believe these reforms are a critical piece of the overall economic strategy necessary to get the economy in my State and our Nation moving again.

As I travel throughout my home State of Connecticut, I see firsthand the tremendous pressures on working families—families caught in an economic squeeze between stagnant income, higher taxes, and the rising cost of basic necessities; families who for the first time in generations cannot count on a better life for their children.

For many of these families, access to affordable, quality health care is their first concern. They wonder how they would pay for treatment if a family member becomes ill. Many fear they are one step away from losing their jobs and their health insurance at the same time. The health care crisis is a stark example of the main threat facing working families today—an erosion of the basic margin of comfort between economic prosperity and potential destitution.

Mr. President, clearly we need a comprehensive health care policy that deals with the twin crisis of access to health insurance and spiraling health care costs. There are now between 34 and 37 million uninsured Americans; almost 300,000 lack insurance in Connecticut alone. Access to insurance is not just a problem for the poor. Fifty-six percent of uninsured adults are employed fulltime and 43 percent of all the uninsured live in families with incomes above \$36,000.

According to the Connecticut State government, the cost of uncompensated care in my State will reach \$430 million by next year, a 38-percent increase in just 2 years. All of us bear these costs. We see the burden in higher insurance premiums and payroll taxes for Connecticut businesses and workers. We also pay much more than necessary for health care services to compensate for the cost of this unpaid care.

Health care costs in general require decisive action. Health costs now consume 13 percent of our gross national product, double the cost per capita in Germany and Japan. In Connecticut, health care expenditures have increased 150 percent in just the last decade. According to a study released last December, the average Connecticut family spends \$5,421 on health care payments, a 170-percent increase since 1980. The average business in my State spends \$3,890 per family on health care payments, a 215-percent increase in the last 10 years.

The critical question facing us as policymakers is how to go about the ambitious task of comprehensive reform. The health care system clearly needs major surgery; the band-aid of quick fixes and incremental change will not suffice. But we simply cannot succumb to frustration and sanction a Govern-

ment run, one-size-fits-all system that would stifle research and innovation and restrict access for most Americans to advanced medical procedures. This, I believe, our citizens do not want or need.

Mr. President, as reflected in the legislation now before the Senate, health care reform is a critical piece of a three-part strategy to get the economy in Connecticut and the Nation moving again. First, middle-income tax relief to restore fairness to the tax system and stimulate consumer spending. Second, growth incentives for capital formation and the creation of new jobs, particularly among small businesses. And third, health care reform that both improves access to care for working families and brings spiraling costs under control for businesses and families alike. Perhaps more than any other single factor, rising health care costs have crippled the ability of American businesses to create new jobs, increase wages, and remain competitive in the international marketplace.

For this reason, the comprehensive health care policy we develop must be fully consistent with the other components of our overall strategy for economic growth. For example, it makes little sense to impose major new Government mandates or taxes on small businesses under the guise of health care reform if it means stifling the creation of the very jobs through which most Americans obtain health insurance in the first place. Our employer-based health insurance system is not perfect, but, in many respects, it has served us well. The key to constructive reform is to broaden access to affordable care within this framework without negating the effect of these changes by crippling business productivity and job growth. In my view, the health reforms included in the pending legislation more than meet this critical test.

First and foremost, the bill takes important steps to make insurance more affordable for small businesses and their employees. Annual increases in insurance premiums would be limited to no more than 5 percent above the underlying trend in health care inflation, thus protecting small employers from large increases in premiums when individuals in their covered groups become ill. Modest limits also would be established to guard against variations in premiums for the same or similar benefits. And the tax deduction for health insurance purchased by small business owners and the self-employed would be increased from 25 to 100 percent.

The bill also would give States several options for improving the availability of insurance for small employers. These options include both guaranteed insurance availability to employers of 50 or fewer employees, and the

establishment of either a mandatory or voluntary reinsurance program. Other options permit States to allocate high-risk groups among all insurers or to those that do not guarantee insurance to small employers. The bill also would prohibit insurers from excluding individuals in a small group or canceling policies because of claims experience or health problems. In addition, newly covered employees would generally be protected against exclusions based on preexisting conditions.

Mr. President, according to a 1991 New York Times/CBS poll, 3 out of every 10 Americans say that they or someone in their household have not changed a job because of the fear of losing essential health insurance coverage. The bill before the Senate would help prevent this job-lock by prohibiting group insurance plans from denying or limiting coverage on the basis of medical history or health status and by protecting those changing jobs from exclusions based on pre-existing conditions.

The health reforms in this growth package also include a number of provisions that would help us gain control of runaway costs. Particularly important is the bill's emphasis on managed care, with provisions to remove legal and regulatory impediments to managed care at the State level. In addition, a health care cost commission would be established to devise strategies to slow the growth of health care spending and to make recommendations that can curb administrative costs. Expanded funding for research on health care outcomes and effectiveness will move us closer to eliminating unnecessary and ineffective treatments and services.

As a long-time supporter of preventive health programs, I am also pleased to note the inclusion of several provisions to promote wellness and preventive care. The bill would expand Medicare benefits to include influenza and tetanus vaccinations. In addition to expanding coverage for these specific services, the bill would provide for ongoing demonstration projects to examine the appropriateness of covering additional preventive services. Together with a strategy of expanded funding for community health centers, childhood immunizations, maternal and child health and child nutrition, these provisions can help us make real progress in controlling acute care costs through cost-effective prevention programs.

Mr. President, Senate action on these provisions is but the first step in a long and arduous process of health care reform. But as the process moves forward from here, I hope we can concentrate on the need for real health care reform, not the political thirst of both parties in Washington for a campaign issue. If we lack consensus on a "grand solution" this year, we should still move forward with the measures on which we

can agree—small business insurance market reform and increased investment in key forms of preventive care. These steps can make a real difference and in no way compromise a broader solution that may develop later as a broader consensus among the American people takes shape. Families in Connecticut and throughout the Nation need our help now and will not understand, or accept, a political stalemate on this critical issue.

Mr. MACK. Mr. President, the debate over this tax bill has been nothing less than a charade. The bill represents a purely partisan maneuver, and will immediately be vetoed by the President. However, it is still important to emphasize that the direction this tax bill takes is fundamentally the wrong one.

We have specific problems in the economy which this bill virtually ignores. There are many people hurting around the country, and particularly in my State of Florida, but this bill does nothing to address the circumstances that are causing this pain.

The bottom line is that credit—which is like oxygen to the economy—has dried up. Government, Congress and the regulators, are stepping on the oxygen hose. We have to get off that oxygen hose. And we must stop discouraging capital from flowing to businesses that will produce jobs and pull us out of our economic tailspin.

I have argued many times that the economic problems we face today are rooted in the real estate industry. About half of our Nation's net worth is in the form of real estate. And, when values go down, the equity that represents peoples' savings accounts, their retirement funds, or their nest eggs disappears.

Unfortunately, this industry has been in a depression for several years. Current commercial real estate values in many areas have fallen by at least 20 percent. In some markets, the drop has been closer to 50 percent. Residential real estate values in many areas are not far behind.

On the commercial side, regulators, stock market forces, credit rating agencies, and even bankers themselves are alarmed. Financial institutions have reduced their holdings of commercial real estate assets and have virtually stopped making new commercial real estate loans.

But banks cannot get rid of commercial real estate assets if neither they nor anyone else will make loans on such assets. The result is far more sellers than buyers, and commercial real estate values continue to plunge.

This has severely undermined the net equity capital positions of the Nation's banking system. According to the National Realty Committee, banks held about \$385 billion of commercial real estate loans as of the end of 1990. This is an amount equivalent to nearly 175 percent of the banking system's net equity

capital. This means that a 20-percent drop in commercial real estate values could slash the banking system's total net equity capital position by an even greater percentage.

The result has been, in my view, a frantic attempt on the part of the banking system to shore up its capital position. But it has been business loans in general that are bearing the brunt of this capital retrenchment. As economist John Rutledge has commented, "The reason why the credit squeeze has shown up in business loans is quite simple—they are easier to kill than property loans. \* \* \* Canceling a revolving credit agreement with a small business is just a phone call away." As of late last year, commercial bank business loan portfolios had shrunk by more than 9 percent at an annual rate.

We need a reversal of the Government policies that are stifling the economy. But what have the Democrats on the Finance Committee produced? A package which does nothing more than tinker around the edges of the problem. A perfect example of this tinkering around the edges is the bill's treatment of capital gains.

No single effort we could make would have a better effect on the economy than a substantial cut in the tax rate on capital gains. The capital gains tax worsens the existing multiple taxation of saving and investment. Reducing it would entice people to invest more, move existing funds into promising new investments, and encouraging equity investments.

But this Finance Committee bill could end up raising the capital gains tax rate on certain kinds of assets—particularly real property. In addition, it fails to reduce the tax rate for those individuals who have large pools of capital. Keeping the tax rate high keeps that capital locked up and out of the hands of businesses who can grow and produce jobs.

The bill establishes four separate tax rates for capital gains, ranging from 5 to 28 percent—presumably because the Democrats feel people should be penalized for making wise investments. But the tax relief would be the greatest for those people in the 15 percent tax bracket. I find this interesting because the Democrats continue to argue that people at lower income levels don't have capital gains! They are wrong, of course, but it is extremely disingenuous that they would craft a capital gains tax cut for people who they don't believe can take advantage of it.

The bill also provides the least relief where the capital gains tax is doing the most damage to incentives. That damage is occurring at marginal income tax rates of 28 percent and above. This bill provides practically no reduction in the capital gains tax rate where these marginal income tax rates apply.

What's more, this bill allows the alternative minimum tax to apply to

capital gains. As a result, many investors will find that the capital gains tax rate won't go any lower than 24 percent for them, but could go as high as 30 percent.

Another problem with this bill is that it changes current law on depreciation recapture. This means that some investing in real estate would discover the tax rate on capital gains rising to 31 percent from the current maximum of 28 percent. This will cause property values to take another hit.

I'm sure those in support of this bill will point to the special break for the investment in certain small business stock. But I'm amazed at our inability to learn from the experience of others. This business of picking winners and losers—centralized planning—failed miserably in the Soviet Union. Why do we want to set up an industrial policy here?

The net effect of these capital gains provisions is that they won't help real estate one bit, and are at best marginal as they affect the large investment pools that are necessary to fund job creation.

In another related area, this bill fails to adequately deal with current law on passive losses. The passive loss rules were enacted in 1986 to stop certain tax shelters, but the rules as they apply to rental real estate went too far and should be corrected. As it stands, real estate professionals are discriminated against. While other small businessmen can almost always take a tax deduction for out-of-pocket, necessary business expenses, real estate professionals often cannot because of the passive loss rules in the Tax Code.

Reforming passive loss rules the right way will encourage people to hold on to their property instead of walking away from it when it is losing money. This will keep performing loans instead of empty buildings on the books of banks.

But here again, the Finance Committee bill doesn't produce much real reform. Instead of treating all real estate professionals fairly by allowing them to take advantage of passive loss rules, this bill appears to exclude certain types, particularly brokers and appraisers. And instead of allowing rental real estate losses to be offset against all other income, this bill limits the offset only to 80 percent of real estate losses, and only against other real estate income.

Clearly, this provision will produce no effective increase in the value of real estate or encourage additional investment. It will continue the effect of the Tax Code and regulatory environment to make real estate an unprofitable investment.

If these flaws were not enough, the crowning blow of this bill is that it raise tax rates. Not only has the committee labored mightily and produced a mouse for economic growth, but it

takes back this and more by raising taxes.

Raising taxes has never been, is not now, and never will be a stimulus to the economy. And raising taxes during a recession defies credulity.

Although the advertised top rate is 36 percent, it will actually be several percent higher than this—perhaps as much as 39 percent. This is because the bill also makes the phaseout of personal exemptions a permanent part of the Tax Code. This means that as these exemptions are taken away, the marginal tax rate, in effect, rises over certain levels of income.

This bill would take a larger bite out of rewards for work, saving, and investment. It would have the perverse effect of encouraging upper income individuals to cut down on worthwhile, productive activities by ratcheting up the tax penalty imposed on them. Although they would bear the added tax liabilities, the decline in production and growth would be felt throughout the entire economy and hurt everyone, such as occurred with the imposition of the luxury tax in 1990.

In summary, this bill is a mistake. I am convinced that it will never become law. But unfortunately, its existence is keeping the Senate from doing something truly worthwhile for jobs and economic growth.

#### TAXATION OF SPONSORSHIP PAYMENTS

Mr. BREAUX. Mr. President, I rise today in support of a provision in H.R. 4210 that would direct the Treasury Department to conduct a study on the taxation of sponsorship payments received by tax-exempt organizations. The need for this study arose because of congressional concerns regarding the recent issuance by the IRS of proposed examination guidelines, Announcement 92-15, 1995-5 I.R.B. 51, and a related technical advice memorandum, TAM 9147007. Through these releases, the IRS has embarked on a path leading to the taxation, as unrelated business income, of funds tax-exempt entities receive from corporate and other sponsors of their activities.

I am concerned about the potential adverse impact the IRS' attention in this area will have on the ability of all tax-exempt organizations to solicit funds. At a time when these organizations are facing severe Federal, State, and local funding limitations, it seems to me that corporate contributions should be encouraged, not discouraged.

When Congress wrote the rules requiring that tax-exempt organizations be taxed on their unrelated business income in 1950, they acted to protect taxable entities from unfair competition. Congress was concerned that a tax-exempt entity could operate a trade or business, similar to that of a taxable entity, without paying income taxes on that activity. For example, the legislative history to the Revenue Act of 1950 makes clear that athletic activities of

schools are related to their exempt educational purpose and, therefore, do not give rise to unrelated business income upon which the school would be taxed. (H.R. Rept. No. 2319, 81st Cong., 2d Sess., reprinted in 1950-2 C.B. 380, 409; S. Rept. No. 2375, 81st Cong., 2d Sess., reprinted in 1950-2 C.B. 504.) Furthermore, the legislative history of the Tax Reform Act of 1969 clarifies that the unrelated business income tax "does not apply unless a business is 'regularly carried on' and therefore does not apply, for example, in cases where income is derived from an annual athletic exhibition." (S. Rept. No. 552, 91st Cong., 1st Sess., 67-68 (1969), reprinted in 1969 U.S. Code Cong. & Ad. News 2027, 2096; Staff of the Joint Comm. on Internal Revenue Taxation, 91st Cong., 1st Sess., Summary of H.R. 13270 (Tax Reform Act of 1969).)

Despite our clear statement of intent in this area, the IRS is aggressively moving forward in their attack on corporate sponsorship payments. This is true even in connection with annual athletic events, like college football bowl games, where the legislative history clearly states such activities are not regularly carried on businesses. As you know, I introduced legislation, S. 866, early last year to address the immediate problem of IRS efforts to tax income received by organizations which conduct amateur athletic events.

The Treasury Department study contained in this tax bill is intended to provide us with a framework for analyzing many of the important questions raised by the IRS' position. With this information, it is my hope that the Finance Committee will take further action, if appropriate, in this area. Specifically, I intend to work with the Treasury Department to obtain an analysis of at least the following four critical issues: First, how the "regularly carried on" requirement can be applied to payments received from sponsors of annual events; second, whether taxes should be imposed where the sponsor's products or services are not named; third, why the legislative history of the unrelated business income tax rules does not require a finding of unfair competition in order to tax sponsorship payments; and fourth, whether various forms of Government assistance will have to be increased to offset reduction of sponsorship payments to tax-exempt organizations resulting from this taxation.

As an example, I am particularly interested in Treasury's response to how the taxation of sponsorship income can be reconciled with the administration's thousand points of light goals. As Federal, State, and local budgetary restraints reduce the financing for social programs, we are turning more and more to the private sector and volunteerism to perform the services Government used to do. Corporate con-

tributions are an important part of the financial backing of tax-exempt organizations that provide many invaluable services.

This is certainly not the time for the IRS to tax these contributions. The Treasury report is just a first step that Congress needs to take in this area. I look forward to working with all of you in an effort to address this issue in a way that will not hamper the efforts of all tax-exempt organizations to raise much needed funds in the 1990's.

Mr. DURENBERGER. Mr. President, tonight I am going to vote against this democratically crafted tax bill, just as I voted against the President's plan two nights ago. What we have here is simply politics, taxes and budget policy bringing out the absolute worst in each other, while breeding cynicism among the electorate.

Just last week, the New York Times conducted a poll on Americans' views on taxes. While a majority of Democrats, Republicans, and independents all favored a tax cut for the middle class, the same majority believed that the Democrats' middle-class tax cut was not designed to help the economy, but simply to get more votes.

Unfortunately, the same holds true for my President's capital gains proposal. A majority believed that the proposal is simply designed as a political move.

Mr. President, in the past 4 days we have heard a great deal of rhetoric about fairness, about, and the income tax burdens of the middle class and the wealthy. And we have heard a great deal about the children of the middle class.

But in this highly charged political year, what we have not heard much talk about is the extraordinary debt that we are piling on our children and our grandchildren at the rate of more than \$1 billion a day.

Mr. President, we can talk in abstractions about fairness. We can weigh the pros and cons of giving a family an additional 82 cents a day for each of their children and about how that will help this economy.

But what I want to talk about is how we are being strangled by a \$400 billion a year deficit. How, if you add in all the interest that is credited to the trust fund surpluses, debt service for this year alone accounts for more than \$316 billion—more money than we ever spent on defense in a single year during the height of the 1980's military buildup.

Mr. President, in less than 5 weeks, Americans will be sitting down with their calculators to figure out how much personal income tax they owe for 1991. When all is said and done, the American people—low income, middle income, and upper income—are expected to pay the Federal Government nearly \$480 billion in individual income taxes and \$520 billion in the next fiscal year.

Most people assume that their income taxes are paying for the military, education, health care and assorted other Federal services. But the reality is that if you add up all the interest that will be paid to private and foreign investors in the next fiscal year, \$215 billion, and add in the interest that will be credited to trust fund accounts, \$101 billion, for every dollar of individual income taxes the Federal Government collects, 61 cents will be used to go for servicing the national debt and the current debt.

Even if you ignore the interest credited to the trust funds, and only consider the \$215 billion in interest that will be paid to private investors, the fact remains that 41 cents of every dollar of individual income taxes goes to pay interest to private investors. In other words, every single income tax dollar collected in the first 149 days of this year, January 1-May 28, will be transferred to private investors who own Treasury debt. And we stand here talking of tax cuts?

Mr. President, Members on both sides of the aisle know that the tax components of this bill represent a political statement by the Democratic majority in Congress, and that the President will be forced to veto this bill. Even though this bill is dead on arrival at the White House, I want to take a few moments to discuss this measure and the President's plan.

The central financing mechanism for the Finance Committee bill is the increase from 31 to 36 percent in the top marginal tax rate. Along with the surcharge on millionaires, these two changes account for more than \$51 billion of the \$57 billion raised by this bill.

Mr. President, I do not object in principle to a higher marginal rate on the highest income brackets. In fact, when President Reagan proposed fundamental tax reform in 1985, he proposed a top rate of 35 percent. But what I do object to is incremental increases in the top marginal rate strictly for political purposes and pandering to the middle class.

When we passed tax reform out of the Senate in 1986, the top marginal rate was 27 percent. After conference, the rate increased 1 point to 28 percent. There it stayed until 1990 when the President and Congress engaged in the arduous 1990 budget accord. I was willing to support an increase to 31 percent because I felt it was a necessary trade-off and compromise to achieve the spending caps that were the heart and soul of the 1990 budget agreement.

Now, less than 2 years later, the Democrats are proposing to increase the top rate to 36 percent. What for? For an 82 cents a day tax break for the middle class. And for a new set of tax incentives for real estate and other investors.

Mr. President, we are gradually moving ourselves back in the direction of

the pre-1986 Code when the top marginal rate was 50 percent and the Code was riddled with loopholes for marginal activities. I just cannot support this gradual whittling away of the concepts embodied in tax reform.

Mr. President, although I object to the approach that is taken in the Democrats' tax bill, at least it is paid for. The same cannot be said for the President's plan and that is one of the key reasons that I voted against it.

I would also note that some of my colleagues proposed financing tax cuts out of savings from defense and other domestic programs. Over the past decade we have added more than \$2 trillion to the national debt in order to finance a large part of the defense buildup and to maintain domestic spending. Now that the cold war appears to be over; now that this country can reduce the size of its military, I believe we should take the savings from defense and use those savings for one, and only one, purpose—reducing the deficit.

We should not be using defense savings to provide tax breaks to real estate investors. At a time when the deficit is \$400 billion, we cannot afford to use those savings for any purpose except to reduce the deficit. It is morally irresponsible to our children and our grandchildren to take this money and use it for more consumption.

Mr. President, the first responsibility of leadership is to define reality. Reality in 1992 is that we need to lower the deficit and raise people's confidence that we are in charge of our future. The process we are engaged in here is almost certain to do the opposite—on both counts.

I think the public has told us that we do not need economic lollipops. Like 82 cent a day tax cuts for the middle class. We do not need big tax breaks for people who build private homes but do nothing for those who rent modest houses and apartments.

We definitely do not need quick fix investment incentives financed with debt—reductions in savings. Any economist will tell you that is really giving with one hand and taking away with the other.

And the last thing we need in these uncertain times in our country is a classic display of the same old Washington stuff: noisy, expensive futility. And with all due respect to my colleagues, I think there has been a great deal of that this past week.

Too much politics and too little discipline got us to where we are today: a billion dollar a day federal deficit.

How about these for national priorities: we spend \$10 on interest for every one we spend on education.

We spend more to service the national debt today than we did to run the entire United States Government in 1974.

The reality is we need a new way to decide how to spend money, or not

spend money, in this Government. And we need a new way to decide where to raise the money we need to run it.

But I am sure that we are not going to find those new ways—or the character to enact them—here, or anywhere this year.

So if we can't do any good, at least let's resolve not to do any further harm.

What good can we do for the economy and for the American people? We have in this package two very helpful steps to solve problems people tell us they care about unlike tax cuts.

There are two measures in this tax package that I would love to have supported with an aye vote on the tax package, and I hope we will have the opportunity to support it later in the year. I compliment my colleague from Texas, the chairman of the Finance Committee, for his authorship of one and his support for the other.

The first is the small group health insurance reforms that are urgently needed and included in this package.

First, we should adopt the small group health insurance reforms that are urgently needed and included in the Finance Committee package. It is the best substantive thing we can get done this year to improve American health care.

Mr. President the American people rely on the private health insurance market for protection from the spiraling costs of sickness. For employees of larger companies, the private insurance financing system works fairly well.

However, for companies with fewer than 50 workers—which is the fastest growing segment of the labor market—the private health insurance market is a dismal failure.

Presently, insurers engage in rating and coverage practices that introduce great inequity and instability in the small group market. Experience rating has led to a spiral of exclusion where insurers exclude risks not manage them. And, even if a policy is available to a small group, it is often priced higher than the business or the workers can afford.

The small group reforms included in this bill are designed to correct these market failures. Some would have us move faster along the path toward pure community rating. While this might be a laudable long-term goal, we must be cautious about moving too quickly in this direction, especially before we have significantly expanded the availability of insurance to those who currently have no insurance.

This bill addresses the worst abuses in experience rating without causing the younger healthier workers who have low rates now out of the marketplace altogether.

Also, we must be realistic about the need to tie insurance reform to a pared down benefit package. If we try to in-

clude all the frills that have burdened insurance through State mandates, we will have undermined the goal of the legislation. Small groups need access to health insurance, but there must be policies that are affordable. It is a cruel hoax to promise insurance reform and fail to make any policies affordable.

The Finance Committee bill walks the fine line between real reforms that will benefit small business and efforts to prevent market destabilization.

I have worked long and hard for small group insurance reform. As vice chairman of the U.S. Bipartisan Commission on Comprehensive Health Care, the Pepper Commission, I heard how insurance failure affects American families. I introduced a small group reform bill over 1½ years ago, S. 3260. It was reintroduced as S. 700 1 year ago almost to the day. I am proud to have joined the distinguished chairman of the Finance Committee in introducing S. 1872 last fall. It emerged from the Finance Committee intact last week.

It is very distressing to me to see this important piece of legislation attached to this politically inspired tax bill. But I am comforted in knowing that this tax bill is just the first act in a four-act play and when the curtain finally comes down, small companies will see this legislation enacted into law.

Second, we should adopt the education financing proposals included in the chairman's package. Senators SIMON, BRADLEY, and I have worked hard to find a way to ease the burden of higher education of American families and we think we've found it: the IDEA Self-Reliance proposal. It has bipartisan support and we can do it this year.

Mr. President, under this plan, college loans will be made available to students directly from the Government—eliminating millions of dollars in administrative expense and red-tape. And second, loan repayments will be based on postcollege income and will be made through the IRS—eliminating millions of dollars in defaults and vastly simplifying how loans get collected.

All the charts and graphs and calculations needed to explain and analyze the IDEA program can be boiled down to those two central features, those two sets of advantages, and those two calculations of savings.

Mr. President, we do not need a tax cut bill today. Neither the Finance Committee \$300 tax credit, nor the President's short-term economic stimulus package should be under consideration in this political climate. Instead we should begin to lay the groundwork for fundamentally changing the way we raise revenue to pay for Federal spending.

After the political moment has passed in November, we can return next January and mark up tax legisla-

tion that lays out a path for the future of this country. Not a tax bill for the short term, but a Tax Code that will set this country on a path toward long-term investment, growth, and jobs.

We must consider providing incentives for real long-term investments. Long-term savings and planning are critical to the success of our country in the rapidly changing world economy. We are the only country in the developed world that has not imposed a value-added tax. We ought to consider a VAT as a means of lifting the tax burden off of savings and investment.

These are just a few ideas worth exploring. But everyone knows that these ideas will never become actors in this year's tax drama.

So in this Senator's view, the best thing I can do for this economy and for our future is to veto no on all the big tax bills. I urge my colleagues, and the administration to open their eyes, lay down their swords, and decide to limit the damage and do the good we can.

I will therefore vote against this legislation.

The PRESIDING OFFICER. The yeas and nays have been ordered on the substitute.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we vitiate the yeas and nays on the substitute.

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

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, under the prior order there was to be following this vote a vote on the cloture motion to proceed to the conference report on the crime bill. Earlier this evening, the distinguished ranking member of the Judiciary Committee, Senator THURMOND, suggested to Senator DOLE and me that that be put off until next week and I checked with Senator BIDEN, and that is agreeable.

Accordingly, Mr. President, I ask unanimous consent that the cloture vote on the conference report on the crime bill, H.R. 3371 scheduled to immediately follow the vote on final passage of this bill be postponed and the majority leader after consultation with the Republican leader may schedule the vote to occur at any time prior to the close of business on Thursday, March 19, but not before Tuesday, March 17.

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

The question is on final passage.

Mr. DOLE. Yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill 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 Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

On this vote, the Senator from New Jersey [Mr. BRADLEY] is paired with the Senator from Michigan [Mr. RIEGLE].

If present and voting, the Senator from Michigan would vote "aye" and the Senator from New Jersey would vote "nay."

Mr. BRADLEY (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Michigan [Mr. RIEGLE]. If the distinguished Senator from Michigan [Mr. RIEGLE] were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

(Rollcall Vote No. 51 Leg.)

YEAS—50

Adams	Dodd	Mikulski
Akaka	Exon	Mitchell
Baucus	Ford	Moynihan
Bentsen	Fowler	Nunn
Biden	Glenn	Pell
Bingaman	Gore	Pryor
Boren	Graham	Reid
Breaux	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick	Kerry	Sarbanes
Byrd	Kohl	Sasser
Conrad	Lautenberg	Simon
Cranston	Leahy	Wellstone
Daschle	Levin	Wirth
DeConcini	Lieberman	Wofford
Dixon	Metzenbaum	

NAYS—47

Bond	Grassley	Nickles
Brown	Hatch	Packwood
Burns	Hatfield	Pressler
Chafee	Heflin	Roth
Coats	Helms	Rudman
Cochran	Hollings	Seymour
Cohen	Jeffords	Shelby
Craig	Kassebaum	Simpson
D'Amato	Kasten	Smith
Danforth	Kerrey	Specter
Dole	Lott	Stevens
Domenici	Lugar	Symms
Durenberger	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McConnell	Warner
Gramm	Murkowski	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bradley, against  
NOT VOTING—2

Harkin Riegle

So the bill (H.R. 4210), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I yield to the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer (Mr. WIRTH) appointed Mr. BENTSEN, Mr. MOYNIHAN, Mr. MITCHELL, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

Mr. BYRD. Mr. President, as the Senate concludes action on this legislation, I commend the chairman of the Senate Finance Committee, Senator BENTSEN, for the job he has done in moving this bill to final passage. As each of my colleagues would certainly agree, putting together a bill as far-reaching and as complex as this bill is a most difficult task. Yet, the senior Senator from Texas has accomplished that task in a manner that merits much credit and praise.

As always, the Senator from Texas has displayed dignity, patience, knowledge, fairness, and extreme comity in shepherding this bill through the Senate. His extraordinary grace under pressure brings credit to this body.

As a Senator who served with Senator BENTSEN at the time we were both Members of the House of Representatives, I am proud to serve with him in this body and proud to call him my friend.

MAJOR HEALTH PROPOSALS

Mr. DOMENICI. Mr. President, as part of the bill that we just passed, there were certain new provisions with reference to our health programs and the deductibility of certain health costs.

I did not cosponsor the Bentsen proposals, not because I did not think they were good reform law, but I wanted to make a point that health policies of the United States are ignoring a very major part of America's population; that is, the seriously mentally ill.

So it seems to me that it is time for someone to indicate that all new major

health proposals that come forth from the Congress are going to have to have proposals presented that will cover the seriously mentally ill in this country, those who are suffering from depression, schizophrenia, bipolar illness, and the like that require a hospitalization and certain kinds of very specific care that is evolving in the United States.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

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

A NOBEL PRIZE FOR CYRUS VANCE

Mr. MOYNIHAN. Mr. President, on March 3, 1992 I asked that a New York Times article by Leslie Gelb be printed in the CONGRESSIONAL RECORD. Mr. Gelb commends former Secretary of State Cyrus Vance for his many contributions to world peace, attributing Secretary Vance's successes to his deep morality and tenacity. To quote from the article: "His persuasive power rests in his rectitude, in stubbornly knowing what is right and in stubbornly knowing that killing is almost always wrong." Significantly, Mr. Gelb asks, "Is this not a Nobel quality?"

In the current edition of Time magazine, Strobe Talbott answers with a second, powerful tribute to Secretary Vance. He emphasizes his efforts negotiating the Yugoslav cease-fire but notes that Secretary Vance's entire career is "a monument to pro bono publico." Mr. Talbott concludes, "if peace comes to the Balkans, Vance will have earned, in addition to his [nominal \$1 United Nations] fee, a Nobel Peace Prize."

Mr. President, I wish to associate myself with Mr. Talbott's observations and I ask unanimous consent that his article be printed in the RECORD at this time.

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

[From Time Magazine, Mar. 9, 1992]

THE ULTIMATE TROUBLESHOOTER

(By Strobe Talbott)

Next week several hundred blue-helmeted United Nations troops are due to arrive in Yugoslavia. They are the vanguard of 14,000 soldiers from 30 countries, the first U.N. peacekeeping force ever deployed in Europe. Their mandate is to disarm the warring militias, monitor the withdrawal of the Serbian-dominated federal army from Croatia and protect the Serb minority in the breakaway republic.

The disintegration of Yugoslavia has already cost at least 6,000 lives, driven 650,000 people out of their homes and thwarted 14 cease-fires. No. 15 has been in effect since

Jan. 3. Last week Serbian President Slobodan Milosevic said "The conditions now exist for a peaceful and democratic solution." That is thanks largely to four outsiders: Javier Pérez de Cuéllar, the former U.N. Secretary-General, who laid the ground for the intervention last fall; his successor, Boutros Boutros-Ghali, who engineered the Security Council's decision two weeks ago to dispatch the troops; Lord Carrington, the chief envoy in the European Community's effort to broker an overall political settlement among the pieces of the shattered Yugoslav federation; and Cyrus Vance, who has labored for five months as the personal envoy of the Secretary-General to negotiate a cessation of hostilities durable enough to put the peacekeepers in place.

Vance, who will turn 75 this month, is the ultimate troubleshooter: fair-minded and tenacious, self-confident yet self-effacing, and utterly dedicated to the musty idea that a private citizen should engage in public service. Soon after World War II, he joined the old-line Wall Street law firm of Simpson Thacher & Bartlett. For decades, his partners have been granting him leaves so that he can devote long, unbillable hours to difficult tasks. His career is a monument to the concept of *pro bono publico*. As compensation for his current assignment, he has asked the U.N. for \$1.

He first distinguished himself as a mediator in 1967, when looting and burning broke out in the ghettos of Detroit. Vance had just resigned as Deputy Secretary of Defense because of a ruptured disk. President Lyndon B. Johnson asked him to take command of the troops he was sending to quell the riots. Vance's back trouble was so incapacitating that he had to take his wife Gay with him to tie his shoelaces. His management of that crisis became a model for leaders in other cities during those long hot summers.

Later L.B.J. sent him to the eastern Mediterranean to head off a war between Turkey and Greece over Cyprus, then to Seoul to restrain President Park Chung Hee from retaliating against North Korea for a series of attacks against the South. In the spring of 1968, he helped keep the lid on Washington when the assassination of Martin Luther King Jr. touched off racial conflict.

I covered Vance in the late '70s when he was Jimmy Carter's Secretary of State. He was the most quotable public figure I had ever encountered. He still is. He is allergic to the first person singular and prone to wooden understatement. He has little knack for explaining what he is up to in terms of grand theories of history, strategy or geopolitics. After a breakthrough in the nuclear arms talks, all Vance could muster for the press was that diplomatic progress was achieved "brick by brick, inch by inch."

In 1980 Vance tried to dissuade Carter from dispatching a military task force to rescue the U.S. hostages in Iran. After the mission ended in a debacle, he resigned on principle, one of the few American statesmen ever to do so. He left a solid legacy: The much maligned SALT II talks regulated the U.S.-Soviet missile rivalry until the end of the U.S.S.R. last December. Vance also played a key part in negotiating the Camp David agreements on the Middle East, and helped transform Rhodesia into Zimbabwe.

But lots of luck in getting him to say so. When I spoke to him at his law office for this column, he first tried to talk me out of writing it, then launched into a long encomium to his right-hand man for Yugoslavia, Herbert Okun, an old friend and veteran U.S. diplomat.

Vance's secretary, Elva Murphy, who has been with him for nearly 24 years, told me she was worried about his safety during five trips to the Yugoslav war zone. Once he had to cross a heavily mined no-man's-land in a minivan. When I asked him about the episode, he looked pained, then insisted that he had never been in real danger since his driver was skilled at spotting the filaments that trigger the mines.

What makes Vance a tough interview makes him a good mediator. Because he has so little interest in getting credit, the contending parties are more likely to trust him. He knows virtually everyone: he worked on the Camp David accords with Boutros-Ghali, then a senior Egyptian official, and on Rhodesia with Carrington, who was British Foreign Secretary. Vance is on a first-name basis with others in the Yugoslav drama, including Serbia's Milosevic and German Foreign Minister Hans-Dietrich Genscher. (Croatia's Franjo Tudjman prefers to be called "Mr. President.")

Vance's recipe for arbitration is "Master the facts of the situation; listen exhaustively to both sides; understand their positions; make sure they understand the principles that must dictate a solution; and don't give up." It doesn't exactly sing, but it works. If peace comes to the Balkans, Vance will have earned, in addition to his fee, a Nobel Peace Prize.

#### FOUR HUNDRETH ANNIVERSARY OF TRINITY COLLEGE IN DUBLIN

Mr. KENNEDY. Mr. President, this month Trinity College in Dublin is celebrating its 400th anniversary, and I join many others in praising it as one of the world's greatest institutions of higher learning.

Ever since its founding, Trinity College has played a central role in the intellectual, economic, and political life of Ireland. Like the rich and complex history of Ireland itself, Trinity College today reflects the many outstanding facets of Irish tradition and achievement.

Numerous renowned leaders have passed through the world-famous arched entrance at College Green in Dublin. Edmund Burke, Wolfe Tone, Robert Emmet, Oliver Goldsmith, Henry Grattan, Oscar Wilde, and other great figures attest to their alma mater's high standard of educational excellence and social conscience. Ireland's current President, Mary Robinson, distinguished herself at the age of 25 by becoming the youngest professor of law at Trinity.

From its origin in the 16th century as an institution established by a British monarch, Trinity College has evolved to become an essential part of today's independent Ireland and a powerful presence in the city of Dublin. The college continues to welcome new generations of students from Ireland and many other lands.

Next week, as part of the anniversary celebration, a distinguished delegation from the Kennedy School of Government at Harvard, including executive dean Richard Cavanagh, Institute of Politics director Charles Royer, and

adjunct research fellow John Cullinane will travel to Ireland to participate in a major colloquium on the ethical challenges facing international business enterprises in today's world economy. I commend their participation and I look forward to the results and recommendations of the colloquium.

I also want to take this opportunity to commend Trinity College on this auspicious anniversary. The college has had a great 400 years, and may the next 400 years be even greater than the first.

#### LOAN GUARANTEES: A MORAL CROSSROADS

Mr. DECONCINI. Mr. President, this country has reached a moral crossroads in its relationship with the only democracy in the Middle East. Yet, with all of the opportunities this presents to this country, I fear for the future. I fear for the future of Israel and I fear for our future relationship with that valued friend and ally. I am also fearful of the U.S. losing its moral position in the Middle East.

With the disintegration of the Soviet Union, we are on the brink of achieving one of our longest held foreign policy goals—freedom of immigration for Soviet Jews. This policy was codified in the Jackson-Vanik amendment to the 1974 trade act which denied most-favored-nation trade status to the Soviet Union unless free and sustained immigration was allowed for all religious and other minorities. The long-awaited day has finally arrived, but for political and other short-sighted reasons, the Bush administration seems willing to let this opportunity to slip through its hands.

One year ago, in the wake of the gulf war, Israel requested assistance in helping to resettle the hundreds of thousands of Jewish refugees fleeing persecution in the former Soviet Union. Because President Bush and Secretary Baker were attempting to forge a Middle East peace conference, they asked Israel to withhold its request until the end of that fiscal year. Understanding the problems which faced the President, Israel agreed to delay its request until September 1991.

In September, Israel renewed its request for these loan guarantees. At that time, the situation in Israel was getting desperate, anti-Semitism was on the rise in the former Soviet Union and help—this truly humanitarian assistance—was needed immediately. Again, the President wanted to delay action on this urgent request, this time for 120 days. He wanted no obstacles in the path of holding his peace conference by the end of October. Secretary Baker argued that the Arab States would balk at attending such a conference if Israel were to get loan guarantees to aid in bringing more Jews to Israel. He implied that the Arabs would stay away from the con-

ference, a conference that could eventually bring peace to their troubled corner of the world, if the United States made a humanitarian gesture to assist in the resettlement of former Soviet and Ethiopian Jews in Israel.

So pressure was brought to bear on Israel. Pressure was also brought to bear on Congress, including the 68 senators who cosponsored the legislation to provide the guarantees, to delay for 120 days. Public pressure was also applied. At a news conference, President Bush complained that Americans of the Jewish faith were meeting that day with their elected officials in Congress and urging Congress' support for the loan guarantees. By attacking American citizens who at their own expense and acting out of their personal commitment to this issue were exercising their constitutional rights to express their views to their elected representatives, he reached a new low in his presidency. He complained that he was one lonely, little guy who was fighting against swarms of lobbyists on this issue.

Congress backed off. Action on this entire foreign aid bill was delayed until this year. The initial meeting of the peace conference was held in Madrid. Subsequent meetings between the Arabs and Israel have been held. Regrettably, no tangible progress has been made and none appears to be on the horizon.

Mr. President, I opposed any delays in consideration of this issue last fall. I urge my colleagues not to give in on this humanitarian issue. I wrote to the President, after he had succeeded in getting the delay and I urged him not to link consideration of the refugee guarantees to progress in the peace conference.

To his credit, he has not made this linkage. Instead, he has upped the ante. President Bush and his self-serving Secretary of State, James Baker, have crated a new linkage which I fear will set a very dangerous precedent. By establishing a linkage of refugee loan guarantees to the internal Israeli Government policy of settlements, Bush and Baker have directly thrust this country into the internal politics of Israel. Indirectly, they have indicated that they would prefer a different government headed by a different Prime Minister. The Shamir government has already fallen. Elections are scheduled for June 23. Apparently Bush and Baker feel they can get a more responsive leader with whom the United States can work after these elections.

I fear that this administration wants to Finlandize Israel in the same way that the former Soviet Union neutered the Independent nation of Finland. The Soviets were so successful in this that Finland had to look over its shoulder every time it thought about taking any steps which might disturb its neighbor. It appears to me that this is exactly

the same type of relationship that Bush and Baker want to establish with Israel.

Secretary Baker tipped his hand on this point when he testified before a Senate committee stating that, "Nobody else is asking us for \$10 billion in addition to the \$3 billion to \$4 billion we give every year with no strings attached." The linkage is obvious, either we do it the Bush and Baker way, or we won't do it at all. Mr. President, it would be better for Israel to leave this take-it-or-leave-it policy than to place its government in such a position. While I do not support the settlements in the West Bank and Gaza, and while I have made this point repeatedly to every leader of Israel since I came to the Senate in 1977, I strongly support the \$10 billion refugee resettlement loan guarantee request with no compromise.

I believe it is wrong for Israel and for the Congress to compromise with the Bush administration on this issue. As I have already explained, it places both the United States and Israel in positions which could have grave consequences for the future.

I also support the loan guarantees because—contrary to public disinformation—they are good for this country and they will not cost us a penny of the foreign aid we provide to Israel each year, over 85 percent of it comes back to the United States in the form of payments, purchases, and job creation. For instance, when the United States extended \$400 million in loan guarantees to Israel in 1990 to help build homes, former United States ambassador to Israel, William Brown said, "It all but rescued the U.S. housing industry, which sold thousands of units of prefab homes and components for Israeli builders." Extending the new loan guarantees will help create jobs in the United States in these desperate times here at home.

These guarantees will be underwritten—every cent of them—by the Israeli Government. Our Government will not spend any money to facilitate the loans. The record is clear. Israel has never defaulted on any loans which we have extended in the past. This record will not change because of the highly-educated and talented labor pool which has been immigrating to Israel from the former Soviet Union. Russian doctors and Ukrainian teachers and Kazakstani professionals are all coming to Israel. An economic boom in Israel can be expected, if only the Israeli Government can effectively resettle, house, and employ these refugees.

Finally, I believe it is in our own national security interests to support Israel in its time of greatest need and hope. Israel was created in 1948 as a safe haven for Jews who, over the centuries, had been scattered across the globe. This hope is being realized in the

thousands of Jews from the former Soviet Union who are finally being allowed to emigrate freely. This has been a goal and a focus of U.S. foreign policy and U.S. law since the Nixon administration. A safe Israel, in secure borders, is the strongest deterrent to war—and to United States involvement in such a war in the Middle East. Prohibiting immigration to Israel by blocking the loan guarantees will only keep Israel relatively weak and underdeveloped. It will only keep Israel in the position of being a target for Arab hostility and Arab threats. It will not serve Israel's interests and it will not serve the cause we all seek, a lasting peace in the Middle East.

In conclusion, Mr. President, I call on President Bush and Secretary Baker to remove the United States from internal Israeli politics. I also call on the Congress to strongly support the Israeli request which is good for Israel and good for the United States. And, I call upon the American people to let their elected officials know that they will not allow politicians to demagog their moral and humanitarian issue.

In the abstract, foreign aid is unpopular, and understandably so. We have needs here at home that must be met and there are places where we can cut the foreign aid budget. But, the American people are a generous and caring people. When they are called upon, they open their hearts to those less fortunate in other parts of the world. Now is such a time. Now is the time when refugees from the former Soviet Republics want to emigrate and now is the time that Israel most needs our help. Now is a time for the American people to educate their politicians that they refuse to be pawns in a sad and misguided Bush administration policy. Let's approve the loan guarantees and get on with the business of the Nation.

I ask unanimous consent that editorials from the Wall Street Journal, and the New York Times be printed at this point in the RECORD.

[From the New York Times, Mar. 6, 1992]

HUMILIATING ISRAEL  
(By William Safire)

WASHINGTON.—The depth of James Baker's anti-Israel animus was displayed last week when he complained to Congress, "Nobody else is asking us for \$10 billion in addition to the \$3 billion to \$4 billion we give every year with no strings attached."

That was a lie twice over. Secretary Baker is a lawyer who weighs his every word. He knows that Israel asks only for a cosigner on a loan from private banks, has offered to pay the 2 or 3 percent set-aside costs and is by no means "asking us for \$10 billion."

He knows, too, that \$1.2 billion a year comes right back to us as repayment for military aid we "sold" Israel to offset our sales of advanced jets and tanks to its enemies. And most of the economic aid is for goods that must be purchased in the U.S. So much for "no strings" from an Administration that just forgave Egypt's \$7 billion debt.

The Iceman of Foggy Bottom is prepared to practice such deception to accomplish one

goal: to limit the settlement of the West Bank to Arabs only. The majority of Jews in Israel believe that would lead to an independent P.L.O. state at their jugular.

To this war-inviting end, Mr. Bush has taken two steps that would have been anathema to any previous U.S. President:

First, he has held hostage Jews fleeing from feared pogroms in Russia and Ukraine. Unless Israel knuckles under to Mr. Bush about the West Bank, there will be no help in borrowing money to house the refugees.

Second, he is unabashedly seeking to topple the Government of an ally. His message to Israelis is unmistakable: Vote out Mr. Shamir and his party of the right—or else.

How can he get away with this strong-arm stuff? Why isn't he concerned about public opinion and Congressional reaction?

Here's why: On the left, he has the editorial support of our leading liberal newspapers; on the right, he sees *The Wall Street Journal's* news pages savaging Israel's supporters in the U.S.

In the Congress, he euchred Senator Patrick Leahy, overseer of foreign aid appropriations, into what the Vermont Democrat thought was a compromise that would assert mutual interests: deducting from the loan guarantee the amount Israel chose to spend on settlements on disputed land.

But now President Bush's operatives are gleefully passing the word that they have compromised that compromise. They will let Congress authorize the loan guarantee—but only if it gives the President and Mr. Baker the power to withhold its use if Israel does not obey the Bush Administration's West Bank diktats.

Such an abdication of responsibility would transfer power from Congress to the executive branch concerning Mideast affairs (and be a step in the direction of a line-item veto, which every President seeks).

Too many supporters of Israel in the U.S. are persuaded that it's O.K. for Mr. Bush to direct a Labor victory, because they think Yitzhak Rabin will stop the settlements, hand over the West Bank and call that peace.

But Mr. Rabin is on the record against political settlements—not settlements needed for Israel's security, which he supported as Prime Minister in the 70's. He is no Peres patsy. If a Labor-Likud unity government emerges, as is likely, Mr. Bush would be infuriated at its refusal to accept his Solomonic decision to cut Israel's territory in half.

If Mr. Bush succeeds in turning the Leahy compromise into a Leahy double-cross, Mr. Baker will tell Israel: "Take it and leave it." Take the guarantee to borrow the refugee-housing money and leave the West Bank to exclusive Arab development—and, ultimately, Arab sovereignty.

No self-respecting nation can accept such a dishonorable deal. Better to withdraw the guarantee request and let the Russian refugees live in tent cities—call them "Bushvilles"—throughout the West Bank. Perhaps televised suffering will appeal to the world's conscience.

Mr. Bush put a leash on Israel when it wanted to respond to Iraqi Scud attacks. He has been trying to bring Israel to heel by electing his choice of a Prime Minister. And now he wants Congress to let him force the people of Israel—desperate to house refugees from feared religious persecution—to sit up and beg.

Too much. In trying to humiliate the only free nation in the Middle East, George Bush and his hatchetman at State demean us all.

[From the *Wall Street Journal*, Mar. 6, 1992]

#### THE UNITED STATES VERSUS ISRAEL

George Bush and James Baker are reputed to be subtle operators, but when it comes to Israel they have only one tone—blunt. Apparently they think this is the tone Israel deserves for participating in the peace process and enduring dozens of Scud-missile attacks during the Gulf War.

The substance of U.S. policy is astonishing. The Bush administration is trying to topple the only democratic government in the Mideast. Mr. Baker broadly hints to the Israeli electorate that if they want increased U.S. support they should vote for the Labor Party, ousting the ruling Likud, in the June Israeli elections.

Whatever his faults, Mr. Baker displayed amazing self-confidence in trying to outmaneuver Yitzhak Shamir in the Israeli political arena. But a few days after he dropped his lead-footed hints, the Likud Party handed him a sharp rebuff in its choice of an electoral slate. The politicians who did well in Sunday and Monday's voting were Ariel Sharon, Benjamin Netanyahu and Zeev B. Begin—those leaders who have been most outspoken about the Baker attacks. The leaders who did poorly in the vote were David Levy and Daniel Meridor, from the so-called dovish wing of the party.

Israel's election campaign is just getting under way. But knowing that they face hostility from not only Syria and the PLO, but also from George Bush and James Baker, Israelis may logically prefer a leader who will cling tenaciously to Israeli interests. The Bush ultimatum—that the U.S. would not guarantee loans to resettle Soviet emigres unless there was a freeze on West Bank settlements—was designed to be unacceptable to Likud. In reality, it is unacceptable across most of the Israeli political spectrum.

The Palestinians' fervent support for Saddam Hussein, the continuing Syrian arms buildup and the attacks by various guerrilla armies have persuaded the majority of Israelis that they cannot pull back to the insecure pre-1967 borders. Yitzhak Rabin, the Labor candidate Mr. Baker implicitly endorses, supports what he calls "security settlements" dotted throughout the West Bank, though he opposes "political settlements" in the densely populated Arab towns.

Israelis overwhelmingly support the annexation of Jerusalem and the retention of the majority of settlements. Most settlements, rather than the trailer parks with machine-gun toting zealots that some American journalists like to portray, are in fat bedroom communities, with pools and jogging facilities and satellite dishes. They house doctors and lawyers, who came for nonpolitical reasons.

On the other hand, there is healthy debate about how to give the Palestinians greater autonomy while still safeguarding Israel's right to exist. But with their persistent Israeli bashing, Messrs. Bush and Baker have taken the U.S. out of this discussion. They are demanding, in effect that Israel make a unilateral concession. Yet, if Israel were to halt settlements, it would be conceding the principle that Jews have no right to live in, say, Hebron, the town where Judaism was born.

If the White House has reversed longstanding U.S. policy that it doesn't support the creation of an independent Palestinian state on the West Bank, then that would be worth knowing.

The White House seems to be veering to the view that in the post-Cold War world Israel has diminished strategic importance,

and the Arab regimes have increased importance. Far from this being a strategic vision for the future, it is merely a replay of the calculation that the British Foreign Office made through the first two-thirds of this century. In the U.S. some oil interests, in Texas and elsewhere, have long felt that alliances with Arab nations should take precedence. They opposed the creation of the State of Israel in 1948.

An Arabist policy led the British down a shameful path that had them training the Jordanian troops who attacked the fledgling Israeli state. For the U.S., the drift would mean replacing America's traditional support for democracy and freedom for a sham realpolitik.

The White House has gone out of its way to pick a fight with Israel. This fight allows Mr. Bush to demonstrate the U.S. drift toward Arabism. He has shown he can intimidate American Jewish organizations. But what are the motives for this turn? It does not advance peace. Israel, being a proud nation, will not be cowed by crude pressure. Perhaps Mr. Baker has been spending too much time with the despotic likes of Hafez Assad.

The PRESIDING OFFICER. The Senator from Minnesota.

#### PRESIDENT BUSH ABANDONS HIS CLEAN AIR ACT

Mr. DURENBERGER. Mr. President, President Bush announced today that he plans to abandon an important part of the 1990 Clean Air Act. This step is a betrayal of all those who worked so long and hard on this legislation to protect our Nation's air quality.

I thought long and hard before using the word, and I have come to the consensus it is the one that is the most appropriate: Betrayal.

The Clean Air Act requires automakers to increase the capacity of air pollution equipment on new cars to capture vapors from the gasoline tank when a car is refueled. This equipment is called an onboard canister. During the compromise process that led to the Clean Air Act, automakers reluctantly agreed to install this equipment in return for many very expensive concessions they fought for and on which many of us yielded. I give you reformulated gasoline in lieu of added emissions requirements as an example.

Now President Bush says that the rules to require onboard canisters will not be promulgated. That decision is totally contrary to the law that we passed and he signed.

Now, the automakers get what they always wanted and the American people get nothing in return. This decision will hurt the more than 100 million Americans who live in cities with dirty air.

In the meantime, much of the rest of the Clean Air Act languishes in a twilight struggle between White House aides and Environmental Protection Agency bureaucrats.

The American people deserve some answers:

Where is the Chemical Safety Board that is to investigate catastrophic accidents?

Where are the rules to eliminate hazardous mercury emissions from garbage incinerators?

Where are the guidelines to improve tailpipe inspection programs in our urban areas?

Where are the rules for cleaner burning fuels?

Where are the requirements for permits to assure that powerplants and oil refineries and steel mills comply with the law?

Where are the new standards to control toxic emissions from chemical plants?

The Clean Air Act was signed into law on November 15, 1990. Each of these items should be well underway by now. The Environmental Protection Agency has written rules to carry out the clear requirements of the law. But, the proposed rules are sitting on some desk down at the White House while the States, and the cities, and the industries of America struggle to implement their responsibilities under the law without the leadership of our National Government.

The possibility of claiming the Clean Air Act as an accomplishment, rather than apologizing for it as another misguided embarrassment, is fast slipping away. Each step toward implementing the law should be relished as another opportunity to remind the American people of the remarkable leadership that George Bush brought to this issue in 1989 and 1990. I wish he would continue that leadership in this, an election year.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

#### REFUGEE POLICY

Mr. SIMPSON. Mr. President, I wish to make a few comments. We are waiting for a couple of our Members to come to the floor, and then we can conclude the day.

But I want to share with the body that, for nearly 14 years, I have been deeply involved in our country's refugee policy.

I participated in every annual refugee consultation with the administration since the passage of the Refugee Act of 1980. This is the process that sets refugee admission levels each year.

I was chairman of the Refugee Subcommittee at a time when this Nation was accepting 14,000 refugees a month, when the total annual cost of our worldwide refugee program was nearly \$2 billion.

I have at times expressed my dismay on this floor at the misuse of our refu-

gee procedures, for instance, at times when groups could not qualify as refugees under the Refugee Act, and yet were accommodated through special legislation. But for the most part, I have been very proud of our country's traditional generosity toward persons fleeing political persecution in their homeland; and since I became a member of the subcommittee in 1981, we have admitted and resettled in the United States more than 1 million refugees.

Mr. President, in theory, we have admitted as refugees those persons of special humanitarian concern to the United States who could neither return safely to their homeland nor find resettlement in the neighboring region.

The international community as well as the United States considers safe repatriation to the homeland as the preferred solution to any refugee situation, with resettlement in the region being the next permanent solution.

Due in part to the cost and to the disruption to the refugee, and his or her family, resettlement in a third country such as the United States is the least preferred permanent solution to a refugee situation. Thus, efforts by the international community to make a nation safe for the return of its citizens deserves our whole-hearted support.

Mr. President, at this time we have a unique opportunity to address, in a very positive way, two very tough refugee problems which we have wrestled with for over a decade. I speak of the more than 300,000 Cambodian displaced persons in Thailand, and of the Haitian boat people. Although the majority of both groups are not refugees fleeing political persecution, they surely are members of two societies which have been wracked by unsettled economies, and unstable governments, and human rights abuses that have been prevalent for more than a decade.

The cost to the United States has been high in both instances. In addition to resettling nearly 150,000 Cambodians in the United States, at an estimated cost of \$7,000 per refugee, the United States has contributed millions of dollars to the cost of the United Nations border operation, which provides food, shelter, and medical assistance to the displaced Cambodians.

With regard to the Haitian boat people, our Coast Guard has controlled the windward passage to interdict and rescue Haitian boat people for over 10 years at a cost today of more than \$400,000 per month.

In addition, the United States military has operated a camp for the boat people at Guantanamo Bay, Cuba, since the increased outflow following the coup in Haiti last December. This operation costs us \$1 million per week.

Third, about a third of the Haitians rescued at sea have been found to have a credible claim to rescue status, and these persons are brought to the Unit-

ed States in order to pursue that claim. As I mentioned earlier, it is estimated that the cost to the taxpayer for each person entering the United States, who receives refugee cash and medical assistance, is \$7,000.

Mr. President, the international community stands poised to take a significant step toward bringing safety and stability to both Cambodia and Haiti. Such a step will greatly reduce the cost to the United States, and more than deal in a humane way with the people who flee these two countries.

A United Nations peacekeeping operation is just now getting underway in Cambodia. The success of the United Nations operation will not only bring peace and free elections to Cambodia, but it will allow the return to the homeland of those hundreds of thousands of displaced Cambodians on the Thai border who otherwise would continue their lives in camps supported by the international community or be resettled in third countries, such as the United States.

Last week, an agreement was signed by the leaders of the Haitian Parliament and President Jean-Bertrand Aristide, which contemplates the establishment of an OAS observer force in Haiti to assist that Government in reforming the military and establishing democratic institutions.

This international effort, if successful, would bring us stability, which would greatly reduce political persecution and economic devastation in that country. A stable government and a settled economy would also greatly reduce our expenditures for the Coast Guard interdiction, the camp at Guantanamo, and resettlement of Haitian boat people in the United States.

So, Mr. President, I call upon my colleagues to support the payment of our fair share of the cost of these particular international peacekeeping programs. It will not be cheap. We are asked to provide 30 percent of the United Nations peacekeeping costs in Cambodia, and we will be expected to provide a larger percent of the OAS costs in Haiti.

However, I urge my colleagues to keep in mind that we are not only providing a lifeboat to the long-suffering people of Cambodia and Haiti, but we are also doing our part in the international effort that could bring to an end the longstanding and continued cost to us of providing for the displaced persons of Cambodia and the boat people of Haiti. In short, we will then do well by doing good.

And important in these tight times we will be assuredly saving money. If these international efforts are not properly funded they will fail, and whatever is invested will then be lost.

This is at a time when the United States must demonstrate its traditional leadership in international humanitarian efforts and makes its full

contribution, and on time. And we have the finest chance in a decade to restore the peace and establish democratic governments in these two fine countries. We must not lose that opportunity.

I very much thank my colleague, the acting majority leader, for his consideration of this additional time.

I yield the floor.

Mr. DOMENICI addressed the Chair.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 535, 536, 537, and 538.

I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that 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:

THE JUDICIARY

Robert L. Echols, of Tennessee, to be U.S. district judge for the Middle District of Tennessee.

John R. Padova, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania.

Jimm Larry Hendren, of Arkansas, to be U.S. district judge for the Western District of Arkansas.

Ira DeMent, of Alabama, to be U.S. district judge for the Middle District of Alabama.

STATEMENT OF SENATOR HOWELL HEFLIN ON THE NOMINATION OF IRA DEMENT

Mr. HEFLIN. I rise today in support of the nomination of a very distinguished Alabamian, Ira DeMent III, to be a U.S. district judge for the Middle District of Alabama. Mr. President, I was privileged to chair his confirmation hearing. Mr. DeMent was rated qualified by a unanimous vote of the American Bar Association, and his nomination was unanimously approved by the Judiciary Committee.

Mr. DeMent was born in 1931, in Birmingham, AL, and he received his undergraduate and law degrees from the University of Alabama. In the ensuing 34 years, he has achieved an impressive career in the private practice of law as well as his service in the public sector. He has served as assistant attorney general for the State of Alabama, 1959; as assistant U.S. attorney for the Middle District of Alabama, 1959-61; and finally, as the U.S. attorney of the Middle District of Alabama, 1969-77.

I might add that Mr. DeMent has served in a variety of other capacities including an instructor for the U.S. Army Infantry School; instructor at Jones Law School; instructor for the Montgomery Police Department; and instructor for the University of Alabama Extension Service.

Mr. DeMent currently serves as general counsel for the Air War College Foundation; special counsel to the Alabama State Department of Youth Services; and as a hearing officer for Alabama Environmental Management Commission. Mr. DeMent has also had a distinguished career where he is currently a retired major general in the U.S. Air Force Reserves.

Mr. President, the public record of this outstanding Alabamian speaks for itself. Mr. DeMent has devoted his career to serving his country, his State and his community. Mr. DeMent has given a substantial amount of his time and talents to pro bono work on behalf of the disadvantaged. He has significant litigation experience in the Federal courts, and I am convinced that he is devoted to the rule of law and that he will be a fair and impartial district court judge.

I am therefore pleased to enthusiastically support his nomination to be a judge for the U.S. District Court for the Middle District of Alabama, and I urge my colleagues to join me in approving his confirmation pursuant to our responsibilities under the advise-and-consent clause of the U.S. Constitution.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 9:30 a.m., a message from the House of Representatives, delivered by Mrs. Goetz, one of its reading clerks, announced that the Speaker had signed

the following enrolled bill and joint resolutions:

S. 2324. An Act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the Food Stamp Program, and for other purposes;

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2773. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2774. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the 1992 Report on National Defense Stockpile Requirements; to the Committee on Armed Services.

EC-2775. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense Reserve Forces Policy Board for fiscal year 1991; to the Committee on Armed Services.

EC-2776. A communication from the Acting Comptroller of the Currency, transmitting, pursuant to law, the annual report on enforcement actions taken by the Comptroller of the Currency under the Financial Institutions Reform, Recovery, and Enforcement Act for calendar year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-2777. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, a report on the salary rates adopted by the Board for 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC-2778. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on a Presidential determination that South Africa has made significant progress toward the elimination of apartheid; to the Committee on Banking, Housing, and Urban Affairs.

EC-2779. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the United States Housing Act of 1937 to provide incentives for families with an absent parent to cooperate with State agencies administering the Child Support Enforcement program under part D of title IV of the Social Security Act to obtain child and spousal support, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-2780. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the annual report of consumer complaints filed against national banks and the disposition of those complaints for cal-

endar year 1991; to the Committee on Commerce, Science, and Transportation.

EC-2781. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Strategic Petroleum Reserve for calendar year 1991 and reporting requirements for the quarter October 1 through December 31, 1991; to the Committee on Energy and Natural Resources.

EC-2782. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2783. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2784. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2785. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the Fiscal Year 1993 Arms Control Impact Statement; to the Committee on Foreign Relations.

EC-2786. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the economic policy and trade practices of each country with which the United States has an economic or trade relationship; to the Committee on Foreign Relations.

EC-2787. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the semi-annual report on voluntary contributions made by the United States Government to international organizations for the period April-September 1991; to the Committee on Foreign Relations.

EC-2788. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report concerning human rights activities in Ethiopia covering the period July 12-October 14, 1991; to the Committee on Foreign Relations.

EC-2789. A communication from the President of the United States, transmitting, pursuant to law, a report relating to nuclear cooperation with the European Community; to the Committee on Foreign Relations.

EC-2790. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Asian Development Bank Act to authorize consent to and authorize appropriations for the United States contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes; to the Committee on Foreign Relations.

EC-2791. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a determination that it is in the national interest to draw down on defense articles and defense services to provide counter-narcotics assistance to Mexico; to the Committee on Foreign Relations.

EC-2792. A communication from the Assistant Secretary of State (Legislative Affairs),

transmitting, pursuant to law, notice of the exercise of Presidential authority with respect to assistance to Angola; to the Committee on Foreign Relations.

EC-2793. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Federal First-Line Supervisors: How Good Are They"; to the Committee on Governmental Affairs.

EC-2794. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Follow-Up Review of the Department of Housing and Community Development's Property Management Administration Systems of Maintenance Practices and Financial Controls: FY 1983-FY 1985"; to the Committee on Governmental Affairs.

EC-2795. A communication from the Secretary of the Resolution Trust Corporation, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2796. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during the month of January 1992; to the Committee on Governmental Affairs.

EC-2797. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report regarding the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during fiscal years 1990 and 1991; to the Committee on the Judiciary.

EC-2798. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act during calendar year 1991; to the Committee on the Judiciary.

EC-2799. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2800. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report on the effect on domestic industry of the Omnibus Trade and Competitiveness Act for calendar year 1991; to the Committee on the Judiciary.

EC-2801. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2802. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2803. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2804. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority under the Free-

dom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2805. A communication from the Director of Operations and Finance, American Battle Monuments Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2806. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2807. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Javits Gifted and Talented Students Education Grant Program; to the Committee on Labor and Human Resources.

EC-2808. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Training Program for Special Programs Staff and Leadership Personnel; Talent Search, Educational Opportunity Centers, Upward Bound, and Student Support Services Programs; and Student Assistance General Provisions; to the Committee on Labor and Human Resources.

EC-2809. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priorities for fiscal year 1992—Rehabilitation Long-Term Training; to the Committee on Labor and Human Resources.

EC-2810. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations governing the allocation of federal and non-federal expenses; to the Committee on Rules and Administration.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 2507. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes (Rept. No. 102-263).

#### 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. GRASSLEY:

S. 2352. A bill to provide a cause of action for parties injured in United States commerce as a result of anticompetitive barriers to United States competition abroad; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2353. A bill to provide for a land exchange with the city of Tacoma, Washington; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2354. A bill to amend section 4214 of title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes; to the Committee on Veterans Affairs.

By Mr. FORD (for himself, Mr. BUMPERS, Mr. DECONCINI, Mr. WELLSTONE, Mrs. KASSEBAUM, Mr. MCCONNELL, Mr. PRYOR, and Mr. GRASSLEY):

S. 2355. A bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 2356. A bill to limit agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. RUDMAN):

S. 2357. A bill to reduce and control the Federal deficit; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports the other Committee has thirty days to report or be discharged.

By Mr. THURMOND:

S.J. Res. 270. A joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day"; to the Committee on the Judiciary.

By Mr. SIMPSON (for Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. SIMON, Mr. ROBB, Mr. KENNEDY, and Mr. PELL)):

S.J. Res. 271. A joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing reprogramming of existing foreign aid appropriations for limited assistance to support this process; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for Mr. DOLE (for himself and Mr. MITCHELL)):

S. Con. Res. 101. A concurrent resolution authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day, considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2352. A bill to provide a cause of action for parties injured in U.S. commerce as a result of anticompetitive barriers to U.S. competition abroad; to the Committee on the Judiciary.

##### ANTICOMPETITIVE BARRIERS TO U.S. COMPETITION ABROAD

Mr. GRASSLEY. Mr. President, at the end of last session I spoke on this floor of the need for Congress and the administration to do more to promote adherence in other nations to the principles of competitiveness embodied in our antitrust laws. While most of our industrial trading partners have similar laws to promote competition, few enforce those laws as rigorously as the United States does.

I am concerned that this absence of strong antitrust enforcement in foreign

jurisdictions inhibits free trade and injures competition in the international marketplace. When a foreign country tolerates cartels in its domestic market, it limits the ability of businesses from other nations to compete in that market. The artificial absence of competition that results enhances the ability of the domestic cartel to compete abroad—all at the expense of consumers. An absence of consistent international antitrust enforcement interferes with competition worldwide, by keeping the international marketplace from being a level playing field. With the hope of promoting free foreign markets and international trade, I am introducing a bill today to promote the enforcement of antitrust laws across national boundaries.

There has been much discussion in recent months about the need for improved enforcement of competition laws in the international economy. Sir Leon Brittan, Director of Competition Policy for the European Economic Community, urges that GATT be amended to include a competition clause. This is a laudable goal. But new proposals for GATT must await resolution of current negotiations in the Uruguay round. Moreover, as the ABA's special committee on international antitrust notes in its recent report, there is reason to be skeptical about the possibility of reaching international agreement on an effective international competition law.

For the immediate term, the goal should be to promote better enforcement of the competition laws already in existence in most industrialized nations. The ABA reports that there is wide variance among nations in the enforcement of laws prohibiting collusive behavior among businesses. This skews the playing field in the international marketplace, injuring international competition and consumers, and hindering economic growth throughout the world.

Although the United States cannot dictate to other countries what their internal competition policies will be, we do have tools available to encourage other nations to effectively deter cartel behavior and other practices which injure free markets.

We can urge our trading partners to adopt stricter antitrust enforcement policies. The Bush administration has done this with the Japanese in the structural impediments initiatives, and had some success. SII has resulted in the adoption of new antitrust guidelines in Japan, and may result in increased fines for cartel behavior—something urgently needed in a country where the maximum fine for violations of the Anti-Monopoly Act is \$40,000.

We can cooperate with other jurisdictions in antitrust enforcement, as with the recent agreement between the United States and the European Eco-

nomic Community to consult each other on antitrust cases which affect both sides of the Atlantic.

We can also use the U.S. antitrust laws to challenge foreign conduct which has the direct intended effect of injuring competition in the U.S. economy.

This is allowed under current U.S. law, and Attorney General Barr has indicated his intent to begin bringing Sherman Act cases against foreign cartels. Hopefully, the administration will support him in this effort.

But even a strong extraterritorial antitrust enforcement policy would not reach all conduct that injures competition in international markets in which U.S. companies operate.

This was apparent in the Zenith antitrust litigation, where the Supreme Court held that our antitrust laws do not necessarily reach foreign cartels that promote export activity in the United States with monopoly profits that result from protection in their home market.

The bill I am introducing today will ensure that the benefits of foreign anticompetitive practices cannot be employed in a manner that injures competition in U.S. commerce.

The bill establishes a new cause of action under the antitrust laws for persons who are injured in the United States by restrictions of competition in another jurisdiction. Under the bill, participants in U.S. commerce who use the benefits of such anticompetitive practices to undercut efficient competitors in the United States can be sued for the damages that result.

For example, under this bill foreign firms who collude to charge monopoly prices in their home market and use their monopoly profits to support predatory pricing in the United States could be sued for the damages that result from such anticompetitive conduct. The bill would similarly apply to firms that agree to allocate foreign markets, or to refuse to supply technologically advanced goods to foreign firms, or to engage in any other anticompetitive conduct.

This bill seeks to promote competition and free market principles by ensuring that protectionist cartels are not used to gain competitive advantages in international trade. Such collusive behavior among firms—which protects domestic markets and subsidizes export trade—injures consumers, restricts international competition, and inhibits worldwide economic growth.

Until antitrust principles are integrated into international law, cartels and import barriers must be deterred and eliminated through the competition laws of individual nations. I urge my colleagues to join me in using antitrust law principles to promote free competition and free markets in the international economy.

I ask that the full 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. 2352

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

**SECTION 1. FINDINGS.**

The Congress finds that—

(1) nations that tolerate or encourage unreasonable anticompetitive restraints that protect domestic producers from foreign competition injure consumers, restrict international competition, and inhibit worldwide growth in jobs, productivity, investment, and income;

(2) competitors that benefit from such restraints have an unfair and unreasonable advantage when competing with United States firms, thereby threatening United States jobs, productivity, investment, and income; and

(3) it is the policy of the United States to promote the enactment and vigorous enforcement by foreign states of their basic competition laws, and to encourage the elimination of both public and private barriers to entry, investment, and other forms of participation in foreign markets by United States and other foreign nationals.

**SEC. 2. AMENDMENT OF THE SHERMAN ACT.**

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) (15 U.S.C. 1 et seq.), is amended by inserting after section 3 the following new section:

**"ANTICOMPETITIVE BARRIERS TO UNITED STATES COMPETITION ABROAD**

**"SEC. 3A. (a) DEFINITION.**—In this section, the term 'anticompetitive market protection' means conduct that—

"(1) violates the laws of a foreign jurisdiction that prohibit unreasonable restraints of trade; and

"(2) inhibits competition by United States persons in the foreign jurisdiction.

**"(b) CIVIL CAUSE OF ACTION BY INJURED PERSON.**—A person that—

"(1) obtains benefits from anticompetitive market protection; and

"(2) employs those benefits in interstate or import commerce of the United States, and thereby causes injury to the business or property of another person engaged in import commerce or interstate commerce of the United States, shall be liable to the injured person for the actual damages sustained and the cost of suit, including a reasonable attorney's fee, in a civil action brought in any district court of the United States in the district in which the defendant resides or is found or has an agent.

**"(c) INTEREST.**—(1) In an action under this section, pursuant to a motion by a prevailing plaintiff promptly made, the court may award simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period, if the court finds that the award of interest is just in the circumstances.

"(2) In determining whether an award of interest under paragraph (1) is just in the circumstances, the court shall consider only—

"(A) whether the plaintiff or defendant made motions or asserted a claim or defense that was so lacking in merit as to show that the party acted intentionally for delay or otherwise acted in bad faith;

"(B) whether during the course of the action the plaintiff or defendant violated any rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether the plaintiff or defendant engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost of the litigation."

By Mr. GORTON:

S. 2353. A bill to provide for a land exchange with the city of Tacoma, Washington; to the Committee on Energy and Natural Resources.

**LAND EXCHANGE WITH THE CITY OF TACOMA, WASHINGTON**

Mr. GORTON. Mr. President, I am introducing legislation that will resolve a long-standing dispute between the Olympic National Park and the city of Tacoma over the relicensing of a dam at Lake Cushman. The park contends that a few acres of its land lies beneath the surface of the lake at its normal water level. When Tacoma City Light recently lowered the reservoir to do work on the dam, the park claimed that the acreage would be inundated if the reservoir were raised and that this would constitute an illegal trespass on park property. Tacoma offered to purchase the small parcel and the park demanded a land exchange instead. This legislation will establish a mechanism for completing that land exchange.

The residents of the Lake Cushman area, as well as the residents of the city of Tacoma who rely on power from the Lake Cushman Dam, have been anxiously awaiting the resolution of this dispute. The level of the reservoir has been kept at an unreasonably low level, decreasing the generation of power from the dam and leaving docks high and dry. I understand that the park and the city of Tacoma have been negotiating a land exchange and, once those negotiations are completed, the park will adjust its boundaries. The only remaining step is the passage of this legislation.

Congressman DICKS has introduced the same legislation in the House. We both hope that the appropriate committees of jurisdiction will act on this matter quickly.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2353

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

**SECTION 1. PURPOSE.**

The purpose of this Act is to settle a dispute involving Olympic National Park and the city of Tacoma's Lake Cushman Project in the State of Washington.

**SEC. 2. LAND EXCHANGE.**

(a) IN GENERAL.—(1) As soon as reasonably possible after the city of Tacoma, Washington, in a manner consistent with this Act, offers to transfer to the United States the

lands identified in paragraph (2) in exchange for the lands described in paragraph (3), the Secretary of the Interior shall carry out such exchange.

(2) The lands to be conveyed to the United States by the city of Tacoma are approximately 40 acres of non-Federal lands located in the Soleduck area of Olympic National Park.

(3) The lands to be conveyed to the city of Tacoma are approximately 30 acres of land adjacent to Lake Cushman identified as lands to be transferred to the city of Tacoma as depicted on the map entitled "Proposed Boundary Revision of Olympic National Park" and dated May 22, 1991. Such map, and a legal description of the lands to be conveyed to the city of Tacoma, shall be on file and available for public inspection with the Director of the National Park Service, Department of the Interior.

(b) CONDITIONS.—(1) Any exchange of lands pursuant to this Act shall occur only if the city of Tacoma demonstrates to the satisfaction of the Secretary of the Interior that the city is able to deliver to the United States clear and unencumbered title to the lands identified in subsection (a)(2), and that after such exchange there will be no legal impediment to the management of such lands as part of Olympic National Park under all provisions of law applicable to Olympic National Park.

(2) The land exchange authorized by this section shall be subject to the laws and regulations applicable to exchanges involving lands managed by the Secretary as part of the National Park System.

**SEC. 3. BOUNDARY ADJUSTMENT.**

At the same time that the Secretary exchanges lands pursuant to this Act, the Secretary shall adjust the boundaries of Olympic National Park in the manner depicted on the map referenced in section 2(a)(3) so as to exclude from such unit of the National Park System the lands transferred to the city of Tacoma by the Secretary pursuant to such exchange.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2354. A bill to amend section 4214 of title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes; to the Committee on Veterans' Affairs.

**VETERANS READJUSTMENT APPOINTMENT AMENDMENTS OF 1992**

Mr. MURKOWSKI. Mr. President, I rise today on behalf of myself and the distinguished senior Senator from Alaska, Senator TED STEVENS, to offer a bill that, if enacted, would restore an important Federal Government employment advantage for a small group of veterans of our armed services that earlier legislation unintentionally rescinded. This bill is offered on request of the administration.

The bill I introduce today would restore so-called veterans readjustment appointment eligibility for some Vietnam-era veterans on the same basis as for Vietnam in-theater and disabled veterans. It would also extend the termination date for Vietnam-era eligibility from the current 1993 sunset, for 2 additional years, to 1995. Finally, the

bill would amend the definition of post-Vietnam service in such a way as to restore eligibility to veterans who continued their military service after the Vietnam era ended.

The distinguished senior Senator from Alaska and I have been contacted by veterans of our State. These veterans are concerned about a new barrier they are encountering in their efforts to secure Federal employment in Alaska. On hearing the facts, we believe they face an inequitable situation compared to other honorably discharged veterans. Thus, in our judgment, this bill must be viewed in this body as a matter of restoring equity of Federal employment opportunity for some of our Nation's veterans.

In 1970, Mr. President, Congress enacted legislation that permitted the executive branch to extend Federal employment opportunities to a certain group of veterans. This program, beginning during the Vietnam war, continues to serve as an important hiring option for the Federal Government.

Authority of Federal agencies to hire these veterans is commonly known as the veterans readjustment appointment authority, or VRA. The highly flexible VRA authority has enabled Federal agencies over the past 22 years to hire over 300,000 veterans into tailored training assignments. On satisfactory progress these trainees are granted career status.

Mr. President, the VRA program not only has provided an important veteran-oriented stimulus in hiring practices in the executive branch, but also has been used to employ and train many thousands of veterans who, without it, may not have been able to find gainful or suitable employment after honorably serving their country.

In recent years, Congress has twice modified this unique employment privilege. In 1989, Congress expanded the program to cover veterans who served on active military duty in the post-Vietnam period. The law limited Vietnam-era VRA appointments to those veterans who had served in a combat theater—that is, actually served in Vietnam—or had sustained a service-connected disability consequent to their active duty. These changes were made in evidence that these two groups—the in-theater and disabled veterans—were most in need of Federal readjustment assistance.

In March 1991, Mr. President, Congress again amended VRA—and thereby created consequences that cause me to rise today. In the act Congress unintentionally restricted VRA appointments to veterans who first entered active duty after the August 1975 close of hostilities with Vietnam. As a consequence of this measure, some Vietnam in-theater veterans—those who entered active duty before August 1975—and who continued on active duty beyond that date—actually lost their

VRA eligibility. This was an unintended effect of an otherwise well-intentioned act.

I would urge my colleagues to join the senior Senator and me in supporting this correction in law, so that we may move it forward in an expeditious manner. In a time of economic recession, we should not complicate the rules for Federal employment—particularly when they deal with employing our Nation's veterans.

Mr. President, I would ask unanimous consent that the full text of our bill, as well as a letter of March 9, 1992, from the Director of the Office of Personnel Management, with enclosures, be printed in the RECORD.

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

S. 2354

*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 "Veterans Readjustment Appointment Amendments of 1992".

**SEC. 2. MODIFICATIONS OF ELIGIBILITY REQUIREMENT FOR READJUSTMENT APPOINTMENT.**

(a) MODIFICATION.—Paragraph (2) of section 4214(b) of title 38, United States Code, is amended to read as follows:

"(2) This subsection applies to—

"(A) a veteran of the Vietnam era; and

"(B) a veteran who served on active duty after the Vietnam era and who is an eligible veteran under section 4211(4) of this title."

"(b) EXTENSION OF APPOINTMENT PERIOD.—Paragraph (3)(A)(ii) of such Action is amended by striking out "December 31, 1993," and inserting in lieu thereof "December 31, 1995."

U.S. OFFICE OF  
PERSONNEL MANAGEMENT,  
Washington, DC, March 9, 1992.

Hon. DAN QUAYLE,

*President of the Senate, Washington, DC.*

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal entitled the "Veterans Readjustment Appointment Amendments of 1992." This legislative proposal would modify certain eligibility requirements for veterans readjustment appointments in the Federal service. We request that it be referred to the appropriate committee for early consideration.

Under the veterans readjustment appointments (VRA) authority, eligible veterans can be hired noncompetitively into the Federal service and receive training in job skills. Since its inception in 1970 as a program for Vietnam-era veterans, the VRA program has been very successful. Over 300,000 veterans have entered the Federal service by means of the VRA, performing needed work in an effective manner, thus benefiting both the veterans and the Federal Government.

Until 1989, the VRA program applied only to veterans of the Vietnam era. In that year, the Congress amended the law to provide VRA eligibility to all veterans who served on active duty after the 1975 close of the Vietnam era. At the same time, the eligibility of Vietnam-era veterans was restricted to those veterans who served in a combat theater or were service-disabled, in view of evidence

that these two groups were more in need of employment assistance than were other Vietnam-era veterans.

Under the 1989 act, the eligibility of Vietnam-era disabled and theater veterans was extended to 1991, or until four years after the veteran's discharge, whichever was later. In contrast, the eligibility of all other Vietnam-era veterans was terminated just two weeks after the law was enacted. However, those veterans whose active duty continued after the Vietnam-era were still able to qualify for the VRA program as post-Vietnam veterans.

In March of 1991, however, the VRA law was amended to restrict post-Vietnam eligibility to those veterans who first entered on active duty after the close of the Vietnam era. As a result, those Vietnam-era veterans who also had post-Vietnam service lost their VRA eligibility on the basis of post-Vietnam service.

We believe that VRA eligibility should be restored for those Vietnam-era veterans whose eligibility was terminated by the 1989 act. Not only was their Vietnam-era eligibility cut off on short notice, but the eligibility that many of them established on the basis of post-Vietnam service was later rescinded by the 1991 act. This contrasts sharply with the treatment of other veterans eligible for VRA. The eligibility of Vietnam-era disabled and theater veterans has now been extended to December of 1993, or 10 years after the veteran's discharge if later. All post-Vietnam veterans are eligible for VRA until the later of December 1999 or 10 years after discharge.

The enclosed legislative proposal would restore eligibility for all Vietnam-era veterans, on the same basis that is applicable to Vietnam-era theater and disabled veterans, and would extend the termination date for Vietnam-era eligibility from the current 1993 by two years, to 1995. The proposal would also remove the "first entered on duty" restriction from the definition of post-Vietnam service, so that Vietnam-era veterans who also have post-Vietnam service can be eligible for VRA on the basis of their post-Vietnam service.

We believe this proposal will provide fair treatment for all Vietnam-era veterans with respect to VRA eligibility. Further, enactment of this proposal will avoid the problems that have arisen from the "dual standards" for Vietnam-era eligibility. This will encourage Federal agencies to make the maximum use of VRA hiring, since, in our view, administrative simplicity of VRA hiring is essential to Federal agencies' support for the program and its consequent success.

The Office of Management and Budget advises that, from the standpoint of the Administration's programs, there is no objection to the submission of this proposal.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

CONSTANCE BERRY NEWMAN,  
Director.

**SECTION ANALYSIS**

To amend title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes.

The first section provides a title for the bill, the "Veterans Readjustment Appointment Amendments of 1992."

Section 2 amends section 4214(b) of title 38, United States Code, which provides eligibility requirements for veterans readjustment appointments in the Federal Govern-

ment. Current law limits eligibility of Vietnam-era veterans to those who have a compensable disability, or who served on active duty during a period of war or in a campaign for which a campaign badge is authorized. The amendment would remove these restrictions, providing eligibility to all Vietnam-era veterans who served on active duty for more than 180 days and received other than a dishonorable discharge. Current law provides that eligibility of Vietnam-era veterans terminates on December 31, 1993, or 10 years after the veteran's last discharge from active duty, whichever is later. The amendment provides that all Vietnam-era veterans will be eligible until December 31, 1995, or 10 years after discharge if later.

Current law limits eligibility of post-Vietnam veterans to those who first entered on active duty after May 7, 1975, when the Vietnam era ended. The amendment provides instead that all veterans who served on active duty after the Vietnam era are eligible for veterans readjustment appointments, and makes explicit that post-Vietnam veterans are also subject to the requirement for more than 180 days of active duty service with other than a dishonorable discharge.

Section 3 provides that the amendments made by the Act take effect on the date of enactment.

By Mr. FORD (for himself, Mr. BUMPERS, Mr. DECONCINI, Mr. WELLSTONE, Mrs. KASSEBAUM, Mr. MCCONNELL, Mr. PRYOR, and Mr. GRASSLEY):

S. 2355. A bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

SAVINGS ASSOCIATION INTERSTATE BRANCHING  
ACT OF 1992

Mr. FORD. Mr. President, I rise today along with Senator BUMPERS, Senator DECONCINI, Senator WELLSTONE, Senator KASSEBAUM, Senator MCCONNELL, Senator PRYOR, and Senator GRASSLEY to introduce legislation affecting interstate branching by Federal savings associations. It is truly unfortunate that this legislation is required today, at a time when Congress just recently debated the issue of interstate branching, at a time when the savings and loan industry is trying to return to stability, at a time when it is still responding to many recent changes in the law, and at a time when the industry does not need any more dramatic policy changes from its regulators.

But, Mr. President, this legislation is required today. It is required to preserve the status quo. It is required because the administration and the Office of Thrift Supervision are now trying to railroad through regulations which would allow unrestricted nationwide branching for federally chartered thrifts. In other words, the OTS regulation will allow Federal thrifts to branch interstate regardless of whether the affected State permits it. If President Bush is looking for a good example for applying his moratorium on new

Federal regulations, I have one for him. A very good one.

I believe the OTS proposal has been poorly timed and poorly reasoned, and it is poorly supported as a result. Yet they have decided to go forward with a final rule. The OTS proposal on interstate branching ignores the rights of States, the legitimate franchise interests of small savings associations, and the effect it will have on the thrift industry and related financial services industries. Because of the manner in which this proposal has been pursued, I believe it will inject instability into an already volatile industry.

I am confused by the actions of the administration on interstate branching for thrifts. I have many questions. Why was this proposal rushed through so quickly? Why the "quick strike" philosophy? The proposed regulation was issued on Monday, December 30th, right in the middle of the holidays. It had only a 30-day comment period. OTS resisted calls by many interested parties—including 25 Senators—to extend this comment period. Now, 6 weeks later, and despite much opposition to the proposal, OTS has apparently decided to go forward. Perhaps they have tried to rush this through before too many noticed.

But where is the evidence that this will be helpful to the industry? What evidence has OTS presented? Mr. President, let me make clear that I am no opponent of interstate branching. But I do believe that any movement in this area can only be done with the recognition that we have a dual system of regulation of financial institutions in this country. No proposals for interstate branching can be fairly considered unless they are implemented through this dual system. There is a wide range of opinion on the benefits and costs of interstate branching. I believe the evidence on this issue is unclear at best.

The administration has done nothing to change this situation. They argue that consolidation will increase the efficiency and safety of the thrift industry through economies of scale and geographic diversity.

Yet critics of interstate branching argue that the largest institutions are often the least profitable, and pose greater dangers to taxpayers. Geographic diversity would not have prevented many recent failures. We have been told that mismanagement had more to do with many failures than anything. In addition, large, impersonal institutions run the risks of diverting funds from local communities, ignoring local economic development efforts and small businesses. They may impose more rigid lending standards that cannot adapt to local needs. And consolidation within any industry runs the risk of imposing needless costs on consumers.

So there are arguments on both sides worth hearing. And it is quite legiti-

mate for different States to approach this issue differently. Some may want unrestricted entry, some may want interstate branching subject to certain conditions, and some may not want it at all.

Mr. President, why override the rights of States at this time? Why turn our current system of dual regulation on its head, as the administration wants to do? Why not let States evaluate the risks and benefits associated with interstate branching? Obviously, the administration has not persuaded enough States to see the issue its way. It now wants to destroy the rights of States to decide for themselves.

Which leads to my final question. Just who supports this new OTS regulation? Who is for it? Many small thrifts in my State and across the country are not for it. Many small banks are not for it. The IBAA is not for it. Many State banking organizations, including my own, are not for it. Many State regulators are not for it. Edward Hatchett, the commissioner of the Department of Financial Institutions in Kentucky, called the administration's proposal "a reckless and totally unwarranted departure from the measured relaxation of thrift and bank branching restrictions that Congress has upheld" as recently as last year. Commissioner Hatchett is not for this OTS regulation. The Conference of State Bank Supervisors is not for it. Consumer groups are not for it. Mr. President, who supports overriding State law on interstate branching? Apparently, only this administration.

The legislation which I am introducing today along with my colleagues will merely preserve the status quo. It preserves the situation which has existed for the last several years under Federal law and regulations. First, it permits federally chartered savings associations to branch across State lines only when the law of the affected States allow it for State-chartered thrifts. Second, the legislation makes clear that any terms and conditions imposed by States on branching will continue to apply. And third, only Federal savings associations which are adequately capitalized under Federal law will be permitted to engage in interstate branching.

As I stated before, Mr. President, it is unfortunate that this legislation is necessary today. However, the ill-considered and ill-advised administration rule for unrestricted nationwide branching by Federal savings associations, in my view, is contrary to congressional intent. It appears that the issue will only be remedied through legislation.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I am pleased to introduce the Savings Association Interstate Branching Act of 1992 with my friend from Kentucky, Senator FORD.

Last November the Senate debated a comprehensive banking bill that included interstate branching for Federal banks. I opposed interstate bank branching and offered an amendment that would preserve the rights of States to control whether and under what circumstances interstate branching would be allowed. Senator FORD's amendment, which improved the original bill by allowing States to opt out of interstate branching, prevailed on the floor. Ultimately the States won when the final conference report, which like the House bill did not include any authority for interstate branching, was approved and finally became law.

Within weeks after the bill, which clearly indicated that Congress did not favor interstate branching, was signed into law, the Office of Thrift Supervision published notice of a proposed rulemaking in the Federal Register. The proposed rule would allow federally chartered thrifts to branch interstate regardless of State law. Despite the fact that 25 Senators signed a letter to the Director of the Office of Thrift Supervision objecting to the rule and requesting that the 30-day comment period be extended, the OTS refused to extend the comment period. I fully expect that the interstate branching rule will be published any day.

Mr. President, the purpose of the Savings Association Interstate Branching Act of 1992 is to preserve the rights of States to determine whether and under what circumstances interstate branching may take place. This bill will permit federally chartered thrifts to branch across State lines, but only if such branching is permitted by State law. The terms and conditions of interstate branching will continue to be within the control of States under this bill. In addition, federally chartered thrifts will only be permitted to branch if they are adequately capitalized.

Congress rejected Federal preemption of State laws on interstate bank branching just 4 months ago. The purpose of this bill is to maintain the current law by preventing the Office of Thrift Supervision from circumventing the will of Congress with the proposed rule.

By Mr. DECONCINI:

S. 2356. A bill to limit plea agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH THOSE CHARGED WITH SERIOUS OFFENSES

● Mr. DECONCINI. Mr. President, I rise today to introduce legislation which, hopefully will put an end to this administration's misguided policy in prosecuting drug kingpins. Simply put,

this bill precludes Federal prosecutors from giving sweetheart deals to drug kingpins for information to prosecute an individual charged with a lesser offense.

Recently, in the criminal trial of General Manuel Noriega, the Bush administration cut deals with some of the most notorious drug kingpins ever apprehended or convicted in this country. Its fear of losing this trial led the administration to breach its own prior announced policy of prosecuting drug traffickers to the fullest extent under the law. This reckless and misguided policy must stop.

Specifically, this bill prohibits the Government from entering into any agreement with criminals charged with or convicted of the following crimes: Crimes using guns in the act of manufacturing, distributing, or selling drugs; crimes of murder or attempted murder of drug enforcement agents or other Federal agents; crimes of kidnapping drug enforcement agents or other Federal agents; crimes involving a "continuing criminal enterprise", an essential statute in prosecuting drug kingpins; and crimes involving the import, distribution, and sale of large amounts of controlled substances.

This legislation is very limited in its scope but very broad in its message. The message to this administration is that bargaining with drug kingpins will not be tolerated. And in those instances where plea agreements are entered, the Justice Department will be accountable to the American people.

This legislation will not tie the hands of Federal prosecutors in entering plea agreements. In fact, my bill would not prohibit the Justice Department from entering into an agreement with a major drug kingpin for information against another drug kingpin being charged with the same offense. The Justice Department should have the flexibility to make that policy decision. Yet, because of the enormous policy ramifications of giving a break to a major drug kingpin, this legislation would require the Attorney General to personally approve such an agreement. My hope is that this is the current policy at Justice. However, in view of the confusion and delays surrounding my requests for information regarding the plea agreements entered into during the Noriega trial, I believe it is imperative that the Attorney General be required to account personally for such an important policy decision.

Mr. President, it has been the stated policy of this administration to prosecute drug traffickers to the fullest extent under the law. Unfortunately, the actions of this administration during the Noriega trial contravene that prior policy.

As a former prosecutor, I recognize the importance of and flexibility that plea agreements provide the criminal justice system. However, entering a

plea agreement with the likes of a notorious drug kingpin such as Carlos Lehder has tremendous ramifications beyond the benefit it would provide to another criminal prosecution. Such actions undermine the credibility of our Government, justice system, and commitment to the war on drugs around the world.

In its own national drug strategy released in January 1992, the administration declared that one of its principal objectives in the war on drugs would be to continue to urge the Andean nations, such as Colombia, to strengthen their laws and increase their prosecution against major drug traffickers. In addition, this administration has continued to press Colombia, Peru, and Bolivia to extradite its drug kingpins for prosecution in the United States.

How can we expect any cooperation from these countries when we are so willing to breach our own commitment?

Congress has a right to be notified when the administration is entering a plea agreement with tremendous policy ramifications. Under my legislation, before the administration enters a plea agreement like those dealt out in the Noriega trial, the Attorney General is required to personally approve such an agreement and must notify Congress 10 days before the agreement is finalized.

At a time when Congress is providing the administration with the prosecutorial tools to convict drug traffickers, the administration has chosen a more lenient path. Indeed, it is rather disturbing that at the same time the administration is cutting sweetheart deals with the likes of Carlos Lehder, President Bush is threatening to veto a crime bill under which Mr. Lehder would receive the death penalty.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD as well as a copy of the floor statement that I gave 2 weeks ago on the administration's plea agreement policy for drug kingpins.

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

S. 2356

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

**SECTION 1. LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.**

Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.—

"(1) IN GENERAL.—In the case of an offender who is charged with, could be charged with, could have been charged with, or has been convicted of an offense described in paragraph (2), the court shall not approve a plea

agreement, cooperative agreement, or other form of agreement between the Government and the offender under which—

"(A) the Government agrees to, or agrees not to contest, a request for a sentence of any particular length or for a reduction in sentence; or

"(B) any other benefit is to be made available to the offender,

in exchange for the cooperation of the offender in providing information or evidence that may lead to the conviction of another person of an offense other than an offense described in paragraph (2).

"(2) OFFENSES.—An offense is described in this paragraph if it is punishable under—

"(A) section 924 (c), (e), (g), or (h), 1114, or 1201(a)(5) of this title;

"(B) section 401(b) or 408 of the Controlled Substances Act (21 U.S.C. 841(b) and 848); or

"(C) section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)).

"(3) APPROVAL OF THE ATTORNEY GENERAL; NOTICE TO CONGRESS.—The Attorney General shall—

"(A) personally review and approve any agreement described in paragraph (1) with an offender under an offense described in paragraph (2) in exchange for the cooperation of the offender in providing information or evidence that may lead to the conviction of another person of an offense described in paragraph (2); and

"(B) not later than 10 days before any such agreement is entered into, provide to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives notice of the proposed agreement, which notice shall include the name of the offender with whom the agreement is to be made."

STATEMENT OF SENATOR DECONCINI FEBRUARY 28, 1992

Mr. President, today President Bush and Drug Czar Martinez are in San Antonio for a two-day "Drug Summit" with the leaders of six Latin American nations. The White House claims that this summit will highlight the progress in the drug war.

I came to the Senate floor today to denounce in the strongest terms possible a misguided policy of the Bush Administration, which I am willing to bet will not be highlighted by President Bush at this summit.

In its effort to convict General Manuel Noriega, the Bush Administration adopted a policy of handing out a cascade of plea agreements to a host of notorious convicted drug kingpins.

Convicted drug traffickers and their lawyers anxiously awaited—and sometimes sought out—an invitation from the Justice Department to testify against Noriega. As the poster here illustrates [and these are but a few examples], what drug kingpin would not jump at the opportunity to testify in this trial?

The group the prosecution assembled in the Noriega trial reads like a list of who's who of drug kingpins in the Federal prison system.

Let me tell you about Colonel Del Cid. The former Noriega bagman faced 70 years in jail on 4 counts of drug trafficking and racketeering. Noriega prosecutors dropped 3 counts and recommended a maximum of 19 years on his remaining count. They have also promised not to deport him when he is released.

If you think this is bad it only gets worse. This is what Daniel Miranda's lawyer said when he went in to cut a deal with prosecutors for his client's testimony against Noriega.

"We made them a list of demands and they basically agreed to all of them."

Miranda flew cocaine shipments for Colombian drug lords. The prosecutors have also agreed to ask INS to give Miranda legal entry into the United States and for the FAA to restore his commercial license. This sweetheart deal is for a witness who had never even met Noriega.

Richardo Bil-O-Nick had been hunted for years by U.S. law enforcement officials for a 2,100 pound shipment of cocaine seized in 1984. Bil-O-Nick should have served 60 years in prison. Yet, with parole, he will be out in 7 years and maybe less. And shockingly, our Government has promised to urge other countries not to prosecute this drug kingpin.

Nevertheless, the biggest travesty of all is the sweetheart deal handed to Carlos Lehder by the Bush Administration. Lehder, one of the founding members of the Colombian drug cartel and an admirer of Adolph Hitler, is the most notorious cocaine trafficker ever apprehended.

More than any individual, Carlos Lehder was responsible for the development, growth and supplying of the cocaine market in the United States. At one time Lehder was responsible for 80 percent of the cocaine that entered the United States.

He is a vicious criminal who is responsible for thousands of deaths in Colombia. The tens of thousands of pounds of cocaine that he smuggled into this country has caused unprecedented violence and murder on the streets of America. It has created millions of drug addicts and crack babies.

In what was considered the most important drug trafficking trial in history, Lehder was convicted in 1988 to a sentence of life plus 135 years.

So how did this Narco-terrorist end up testifying for the Government? Lehder, himself, was lobbying for a spot in the Noriega trial less than a month after Noriega's arrest. He sent out letters and sought interviews after more than a year of silence.

Did he do it out of his love for the United States? I don't think so. His disdain for America is renowned. The prosecutor in his trial stated that Lehder was motivated by his hatred of the United States. He considered cocaine a "revolutionary weapon against North American imperialism." At the Noriega trial, Lehder, himself, stated that he was testifying in the hopes of winning a reduced sentence that would allow him to return to Colombia.

I still don't know the extent of the Lehder plea agreement. I wrote a letter last December to Attorney General Barr requesting a detailed explanation of it. However, it took 2 months for a response that was as vague as I have ever received.

I do know that in return for testifying against Noriega, Lehder was transferred out of our country's highest security prison—the Federal prison in Marion, IL. The Justice Department claims that he was moved for his own personal safety.

How can moving him out of the most secure prison in the United States improve the safety of this convicted drug kingpin?

We also know that the administration went along with Mr. Lehder's wishes and brought 8 members of Lehder's family to the United States to live under Federal protection. I wonder how much of this cost is being footed by the American taxpayer?

The Justice Department claims that Lehder is paying for this himself. My question is with what? Lehder can only be paying for these services with his drug profits.

Lehder, who was fined a paltry \$350,000 when he was convicted, has acknowledged

that he still has \$8 million in property and assets throughout the world. These assets are from drug profits that he continues to earn interest on and which his family can benefit from.

This is disturbing in light of the fact that Lehder owes \$98 million to the United States in taxes on his drug profits. And he has paid none of it.

At one time the motto of Colombian drug lords was "we prefer a grave in Colombia to a jail in the United States." With the new Bush policy on plea agreements, Colombian drug traffickers are requesting deals that will land them in the United States.

Colombian drug lord Pablo Escobar, who surrendered to the Colombian Government in June, is now sitting in his private, luxurious prison outside his home town. He continues to run his cocaine empire from prison and orders assassinations of his enemies.

In late December Escobar proposed his own deal to the United States Government. Escobar wants to provide evidence against Noriega in exchange for handing over all evidence we have against Escobar.

It was once the stated policy of this administration to prosecute drug kingpins to the fullest extent possible. Clearly, that policy has been replaced by a misguided policy that caters to the most notorious drug traffickers in the world. And this week, while the President will be attempting to extract demands from Andean nations to fight the war on drugs, the United States Government must defend its get soft policy on drug kingpins.

Mr. President, this policy—plain and simple—is wrong. It is indefensible. And it is detrimental to our relationships with our allies in the war on drugs.

We are sending the wrong message when we bargain with the likes of Carlos Lehder. Last November, we listened to President Bush threaten to veto a comprehensive crime bill that emerged from a House-Senate conference. Yet, under that bill there would be no opportunity to bargain with the likes of Carlos Lehder and Pablo Escobar. Instead, they would receive the death penalty. That is the message we should be sending our allies.

Mr. President, I plan to introduce legislation that will put an end to this plea agreement practice for drug kingpins. In the meantime, I call on the President to renounce this misguided policy this week at the drug summit.

By Mr. DOMENICI (for himself and Mr. RUDMAN):

S. 2357. A bill to reduce and control the Federal deficit; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

DEFICIT REDUCTION AND CONTROL ACT

Mr. DOMENICI. Mr. President, I am going to send to the desk tonight a bill. I choose to call it the Deficit Reduction and Control Act of 1992.

Essentially, it is an effort on my part to resolve a very serious dispute and a lingering problem; that is, what happens in 1993 to the tax that we have built into the Budget and Enforcement Act with reference to defense, with reference to foreign assistance, and domestic spending? It is obvious that there are going to have to be some changes.

On the other side of the aisle, 48 Democratic Senators and 1 Republican suggest that we just pull down the wall; that is, take the caps on defense, take them down and permit the spending of savings that we might make in defense, even if we follow the President's proposals, and that those be placed into the category of domestic spending. Obviously, that is not going to fly.

Yesterday, I inserted in the RECORD a letter which I sent to the President signed by 35 Senators saying: If that passes and goes to his desk, he should veto it and we will support his veto. That means we are going to have a stalemate on what happens in 1993 when we reduce spending somewhat because even the President is suggesting we should reduce it.

What are we going to do about the fact that the current law has a cap that is higher than the President's new numbers, and current law would put all of that savings into the deficit?

I am introducing a measure that will permit us to change the targets in 1993 and then adopt a change in the Budget Enforcement Act which would compel the Congress to adopt 2-year marks, 2-year numbers, for defense, and if we do not, we will have to settle for the previous year's defense numbers. It is time we understand that an orderly bill on defense requires that we have 2-year budgets and numbers that are mandatory, that are legislated. If we do not do that, we are going to pit defense spending in a build-down era against all of domestic spending. And it is obvious that that is pretty risky. Defense will come out a loser.

One of the landmark provisions of the Budget Enforcement Act of 1990 [BEA] was the creation of enforceable 5-year spending caps on discretionary spending categories. The BEA established spending caps for three categories for the period 1991 through 1993. For the last 2 years of the BEA—1994 and 1995—one aggregate spending category was established for all discretionary spending.

Modifications and an extension of the BEA are proposed that would continue the fiscal discipline established in the historic 1990 agreement and provide for an orderly and systematic procedure for establishing binding spending caps for defense and nondefense discretionary spending.

The major elements of the extension bill follow:

First, new lower spending caps for fiscal year 1992 would be set for defense spending, reducing budget authority by \$7 billion and outlays by \$1 billion. Savings would be dedicated to deficit reduction. Adoption of the President's defense rescission proposals for fiscal year 1992 would result in the new caps being met.

Second, new lower spending caps for fiscal year 1993 would be set for de-

fense, lowering the fiscal year 1993 caps by \$7.4 billion in budget authority and \$4.9 billion in outlays. The deficit would be reduced by \$4.9 billion from these lower caps.

Third, to ensure that the peace dividend would be devoted to deficit reduction, the bill would reduce the Gramm-Rudman deficit targets in each year, providing cumulative deficit reduction savings of \$14 billion for the remainder of the budget agreement—including defense savings for fiscal year 1996 and 1997 and total deficit reduction amounts to \$26.5 billion.

Fourth, for fiscal years beyond 1993, defense and nondefense spending caps would be established through the adoption of a congressional budget resolution setting the aggregate spending caps for 2-year intervals. For example, the adoption of the fiscal year 1994 congressional budget resolution would specify discretionary spending limits for defense and nondefense spending for 1994 and 1995.

Fifth, upon the adoption of the budget resolution, a joint resolution establishing the agreed-on spending caps would be deemed adopted and presented to the President for his signature or veto. If enacted, the new spending caps would be enforceable through the same procedures now existing in current law. For example, breeches in the spending caps would result in automatic across-the-board reductions to make the caps real.

Sixth, total discretionary spending for both defense and nondefense spending could not exceed the following amounts:

In fiscal year 1994: \$507.6 billion in budget authority; \$534.6 billion in outlays.

In fiscal year 1995: \$514.0 billion in budget authority; \$537.3 billion in outlays.

Seventh, if the Congress failed to adopt a budget resolution setting defense and nondefense spending levels, the most recent statutory spending caps could continue until such time as a budget resolution was adopted.

The seven provisions of the new extension and enforcement bill would continue the fiscal discipline established in the 1990 Budget Enforcement Act [BEA], allow for an orderly and systematic process for establishing new spending caps in 2-year intervals, and assure that defense spending levels are set with the full involvement of the Congress and the President.

I ask unanimous consent that the bill be referred to the appropriate committee, and that the comparison of spending caps be printed in the RECORD at this point.

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

COMPARISON OF SPENDING CAPS

[In billions of dollars]

	1992	1993	1994	1995
<b>CURRENT CAPS (WITH BEA ALLOWANCE)</b>				
Defense:				
Budget authority .....	301.8	289.0	NA	NA
Outlays .....	309.3	296.8	NA	NA
International:				
Budget authority .....	22.2	22.7	NA	NA
Outlays .....	19.8	20.6	NA	NA
Domestic:				
Budget authority .....	202.7	206.1	NA	NA
Outlays .....	215.1	225.3	NA	NA
<b>Total:</b>				
Budget authority .....	526.7	517.9	515.3	522.1
Outlays .....	544.3	542.7	538.4	541.6
<b>DOMENICI BILL</b>				
Defense:				
Budget authority .....	294.8	281.6	( <sup>1</sup> )	( <sup>1</sup> )
Outlays .....	308.3	291.9	( <sup>1</sup> )	( <sup>1</sup> )
International:				
Budget authority .....	22.2	22.7	( <sup>1</sup> )	( <sup>1</sup> )
Outlays .....	19.8	20.6	( <sup>1</sup> )	( <sup>1</sup> )
Domestic:				
Budget authority .....	202.7	206.1	( <sup>1</sup> )	( <sup>1</sup> )
Outlays .....	215.1	225.3	( <sup>1</sup> )	( <sup>1</sup> )
<b>Total:</b>				
Budget authority .....	519.7	510.5	507.6	514.0
Outlays .....	543.3	537.8	534.6	537.3

<sup>1</sup>The Domenici bill provides a procedure whereby the budget resolution would establish defense and nondefense caps for fiscal years 1994 and 1995.

NA: Not applicable.

REDUCTION IN CAPS

[In billions of dollars]

	Domenici bill	1992	1993	1994	1995
Defense:					
Budget authority .....		-7.0	-7.4	NA	NA
Outlays .....		-1.0	-4.9	NA	NA
International:					
Budget authority .....		0	0	NA	NA
Outlays .....		0	0	NA	NA
Domestic:					
Budget authority .....		0	0	NA	NA
Outlays .....		0	0	NA	NA
<b>Total:</b>					
Budget authority .....		-7.0	-7.4	-7.7	-8.1
Outlays .....		-1.0	-4.9	-3.8	-4.3

NA: Not applicable.

REDUCTION IN MAXIMUM DEFICIT AMOUNTS

[In billions of dollars]

	Domenici bill	1992	1993	1994	1995
Current levels .....		371.2	419.4	304.9	300.5
Peace dividend .....		-1.0	-4.9	-3.8	-4.3
New levels .....		370.2	414.5	301.1	296.2

By Mr. THURMOND:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day"; to the Committee on the Judiciary.

82D AIRBORNE DIVISION 50TH ANNIVERSARY RECOGNITION DAY

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which designates August 15, 1992, as "82d Airborne 50th Anniversary Recognition Day."

The 82d Airborne is so well known as an airborne division that its proud World War I heritage as a conventional infantry division is often overshadowed. The division was formed on August 25, 1917 and in nearly 2 years of fighting in the trenches of France, saw more continuous combat than any other United States division.

After World War I, the 82d was inactivated on May 27, 1919. For more than

20 years the 82d would live on only in the memories of the men who served in her ranks during the Great War. Following the attack on Pearl Harbor, the 82d Infantry Division was formed once again—this time on March 25, 1942, under the command of Gen. Omar Bradley.

The War Department, realizing the esprit of the 82d, chose it to become the first of a new type of infantry division—airborne. On August 25, 1942, under the command of Gen. Matthew B. Ridgway, the 82d began a legend that has continued to grow for 50 years. The 82d was deployed to North Africa in 1943, and from there they made parachute and glider assaults on Sicily and Salerno. Other combat jumps were at Normandy, during the D-Day invasion—where I landed with them—and later in Holland, during the Allied push across central Europe.

After the war, the 82d served occupation duty in Berlin, where they earned the title "America's Guard of Honor" after General Patton made the comment, "In all my years in the Army and all the honor guards I've seen, the 82d, honor guard is undoubtedly the best." After 5 months in Berlin, the 82d returned to the United States, marching in grand style down New York's 5th Avenue in a tickertape reception.

The division was added to the regular Army roles and assigned to Fort Bragg, NC, where it became the Army's strategic reserve and later part of the rapid deployment forces, ready to deploy worldwide within 18-hours of notification. Elements of the 82d have served with distinction in the Dominican Republic, Vietnam, Grenada, Panama and, most recently, the Persian Gulf, where as the first United States combat troops to deploy—they drew the line in the sand.

Mr. President, passage of this resolution will bring well-deserved national recognition to the 82d's tireless commitment to our Nation's defense and ideals, and I urge its adoption. I ask that the text of this resolution be printed in the RECORD.

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

S.J. RES. 270

Whereas 50 years ago, brave men and women of the United States made tremendous sacrifices to defend freedom and to save the world from tyranny and aggression during World War II;

Whereas during World War II, the American paratrooper became a new type of fighting soldier;

Whereas from the drop zones of Sicily and Normandy to the desert sands of Iraq, the paratroopers of the 82d Airborne Division of the United States Army have distinguished themselves as being among those who were the first to answer the call to go in harm's way;

Whereas the 82d Airborne Division is recognized as an elite fighting force that continues to be on the cutting-edge of our Armed Forces;

Whereas today, as for the past 50 years, the 82d Airborne Division's ranks are filled with some of our Nation's best soldiers; and

Whereas it is appropriate that we recognize the 82d Airborne Division on the 50th anniversary of its formation and pay tribute to the gallant paratroopers, past and present, who wear the maroon beret: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That August 15, 1992, is designated as "82d Airborne Division 50th Anniversary Recognition Day." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities acknowledging the many important contributions of the 82d Airborne Division of the United States Army over the past 50 years.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. DURENBERGER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 89

At the request of Mr. DURENBERGER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 89, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 640

At the request of Mr. KASTEN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor 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. 1883

At the request of Mr. HOLLINGS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 2239

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr.

DIXON] was added as a cosponsor of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 2277

At the request of Mr. COHEN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of 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.

S. 2341

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2341, a bill to provide for the assessment and reduction of lead-based paint hazards in housing.

S. 2347

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of S. 2347, a bill to improve the health of the Nation's children, and for other purposes.

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. NUNN], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. INOUE], the Senator from Connecticut [Mr. DODD], the Senator from Delaware [Mr. ROTH], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE JOINT RESOLUTION 266

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Delaware [Mr. ROTH], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 266, a joint resolution designating the week of April 26 - May 2, 1992, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 267

At the request of Mr. KENNEDY, his name was added as a cosponsor of Senate Joint Resolution 267, a joint resolution

tion to designate March 17, 1992, as "Irish Brigade Day."

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution urging the Government of the United Kingdom to address continuing human rights violations in Northern Ireland and to seek the initiation of talks among the parties to the conflict in Northern Ireland.

SENATE CONCURRENT RESOLUTION 101—AUTHORIZING THE USE OF THE CAPITOL ROTUNDA

Mr. SIMPSON (for Mr. DOLE, for himself and Mr. MITCHELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 101

*Resolved by the Senate (the House of Representatives concurring),* That the rotunda of the Capitol may be used by the American Ex-Prisoners of War on April 9, 1992, from 11:00 o'clock ante meridian until 12:00 o'clock noon for a ceremony in recognition of National Former Prisoner of War Recognition Day. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

TAX FAIRNESS AND ECONOMIC GROWTH ACT

MCCAIN AMENDMENT NO. 1722

Mr. MCCAIN proposed an amendment to 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, as follows:

At the end of the bill, add the following section:

SEC. . TAX FAIRNESS AND ACCOUNTABILITY.

(a) SUPERMAJORITY REQUIREMENT IN THE SENATE.—In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974 STRIKING 60-VOTE REQUIREMENT FOR REVENUE REDUCTION.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a deduction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; Provided however, that a bill, resolution or amendment that reduces the tax for Social Security may only be consid-

ered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

BUMPERS AMENDMENT NO. 1723

Mr. BUMPERS proposed an amendment to the bill (H.R. 4210); supra, as follows:

The United States Department of Transportation reports that 39 percent of the bridges in the Federal-aid Highway System are "structurally deficient" and "functionally obsolete" and 42 percent of the rural interstate highways and 43 percent of the urban interstate highways are rated in either poor or fair condition; and

The Federal Highway Administration estimates that existing highway and bridge systems will carry 65 percent more travel in the year 2009; and

The Federal Highway Administration estimates that a total of \$75 billion would be required annually through the year 2009 from all levels of government to eliminate all bridge and pavement deficiencies; and

The current Federal authorized spending is approximately \$20 billion a year through 1997; and

State and local governments are unable to contribute the \$55 billion annual difference necessary for the projected needs for bridge and pavement repair and upkeep; and

The national economy is currently depressed and faces a devastating period of economic stagnation which the release, over the next two fiscal years, of the \$11.1 billion surplus highway trust funds could help alleviate; and

Upgrading roads and bridges is a sound and vital investment which could result in a dividend of long-range economic growth and improved efficiency; and

Spending trust fund revenues would benefit all sectors of the economy by stimulating industries ranging from manufacturing to service providers; and

Highway spending would immediately stimulate growth in a broad range of the American work force, both skilled and unskilled; and

The spending of \$1 billion on the nation's transportation infrastructure creates 52,000 jobs while spending \$1 billion on defense creates only 30,000 jobs; and

No additional taxes and no new federal regulations are necessary to accomplish this goal; and

Delaying road and bridge projects is shortsighted and would mean higher costs to the American taxpayer in the future; and

The General Accounting Office estimates that approximately 1.25 billion hours and 1.38 billion gallons of gasoline are wasted annually due to traffic congestion and the hours spent by Americans in traffic result in both a decline in productivity and an increase in air pollution; and

Americans have already paid for bridge and road improvements through the federal gasoline tax, which cannot be lawfully spent for other purposes, and therefore deserve these improvements; Now, therefore, be it;

It is therefore the sense of the Senate that Congress and the President should declare a state of emergency under the 1990 budget reconciliation bill to authorize expenditure of \$5 billion in 1992 and \$5 billion in 1993, in excess of the allocations that are provided for by law, from the highway trust funds, to create jobs, ease the financial burden on state and local governments, stimulate the economy, and provide a safe and sound transportation infrastructure for our Nation's future.

GRAHAM (AND OTHERS) AMENDMENT NO. 1724

Mr. GRAHAM (for himself, Mr. BOND, and Mr. BUMPERS) proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the appropriate place, add the following:

TITLE —TRANSPORTATION

SEC. . 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 (2), by striking "\$18,303,000,000" and inserting "\$21,800,000,000";

(2) in paragraph (3), by striking "\$18,362,000,000" and inserting "\$21,362,000,000";

(3) in paragraph (4), by striking "\$18,332,000,000" and inserting "\$15,332,000,000"; and

(5) in paragraph (5), by striking "\$18,357,000,000" and inserting "\$15,357,000,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in paragraph (1)—  
(A) by striking "\$2,913,000,000 for fiscal year 1993," and inserting "\$3,913,000,000 for fiscal year 1993,";

(B) by striking "\$2,914,000,000 for fiscal year 1994," and inserting "\$3,914,000,000 for fiscal year 1994,";

(C) by striking "\$2,914,000,000 for fiscal year 1995," and inserting "\$1,914,000,000 for fiscal year 1995,"; and

(D) by striking "\$2,914,000,000 for fiscal year 1996," and inserting "\$1,914,000,000 for fiscal year 1996,".

(2) in paragraph (2)—  
(A) by striking "\$3,599,000,000 for fiscal year 1993," and inserting "\$5,599,000,000 for fiscal year 1993,";

(B) by striking "\$3,599,000,000 for fiscal year 1994," and inserting "\$5,599,000,000 for fiscal year 1994,";

(C) by striking "\$3,599,000,000 for fiscal year 1995," and inserting "\$1,599,000,000 for fiscal year 1995,"; and

(D) by striking "\$3,600,000,000 for fiscal year 1996," and inserting "\$1,600,000,000 for fiscal year 1996,".

(c) TECHNICAL CORRECTIONS.—Section 115 of title 23, United States Code, is amended—

(1) by striking the heading of subsection (a) and inserting the following new heading: "SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS.—"

(2) in subsection (a)—  
(A) by striking clause (i) of paragraph (1)(A) and inserting the following new clause:

"(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or";

(B) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and"; and

(C) by striking paragraph (3);

(3) in the heading of subsection (b), by striking "PRIMARY" and inserting "NATIONAL HIGHWAY SYSTEM";

(4) in paragraph (1) of subsection (b), by striking "Federal-aid primary system" and inserting "National Highway System"; and (5) in subsection (c), by striking "152."

#### SEC. . MASS TRANSIT.

(a) 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 of Transportation after the date of the enactment of this Act, 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 of Transportation, 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.

(b) MASS TRANSIT AUTHORIZATIONS.—Section 21 of the Federal Transit Act (49 U.S.C. App. 1617) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) FORMULA GRANT PROGRAMS.—(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, \$450,000,000 for fiscal year 1992, \$1,950,000,000 for fiscal year 1993, \$1,990,000,000 for fiscal year 1994, \$350,000,000 for fiscal year 1995, \$310,000,000 for fiscal year 1996 and \$1,920,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, \$1,583,000,000 for fiscal year 1992, \$2,055,000,000 for fiscal year 1993, \$1,885,000,000 for fiscal year 1994, \$1,925,000,000 for fiscal year 1995, \$1,965,000,000 for fiscal year 1996, and \$2,430,000,000 for fiscal year 1997, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, \$1,450,000,000 for fiscal year 1992, \$2,125,000,000 for fiscal year 1993, \$2,185,000,000 for fiscal year 1994, \$1,325,000,000 for fiscal year 1995, \$1,265,000,000 for fiscal year 1996, and \$2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, \$160,000,000 for fiscal year 1992, \$305,000,000 for fiscal year 1993, \$265,000,000 for fiscal year 1994, \$325,000,000 for fiscal year 1995, \$385,000,000 for fiscal year 1996, and \$20,000,000 for fiscal year 1997, to remain available until expended.

#### SEC. . AUTHORIZATIONS SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS.

Any amount authorized to be appropriated pursuant to this title is subject to the availability of appropriations.

#### D'AMATO AMENDMENT NO. 1725

Mr. D'AMATO (for himself and Mr. NICKLES) proposed an amendment to the bill (H.R. 4210); supra, following

At the appropriate place insert the following:

#### SEC. . GENERAL WELFARE ASSISTANCE PROVIDED BY STATES TO ABLE-BODIED INDIVIDUALS.

(a) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of law, if the Secretary certifies that any State is operating a general welfare assistance program during any calendar quarter—

"(1) which provides benefits to an able-bodied individual (as determined by the Secretary) who has attained age 18 and who has no dependents, and

"(2) which does not require such individual to participate in a State workfare program (meeting the requirements of the Secretary as provided in regulations to be issued by October 1, 1992),

the Secretary, upon such certification, shall reduce by 10 percent the amount that such State would otherwise receive in aid to families with dependent children under this part during such quarter."

(b) EFFECTIVE DATE.—

Subsection (a) shall apply to calendar quarters beginning on or after January 1, 1994.

#### D'AMATO AMENDMENT NO. 1726

Mr. D'AMATO proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the appropriate place insert the following:

#### SEC. . ADDITIONAL STATE REQUIREMENT WITH RESPECT TO AFDC BENEFITS

(a) NEW STATE PLAN REQUIREMENT.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) in paragraph (4), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) provide that for a period of 1 year from the date an individual becomes a new resident in a State, such individual is eligible to receive aid to families with dependent children in an amount that does not exceed the lesser of—

"(A) the amount the individual received or could have received in the former State of residence, or

"(B) the amount the individual could receive in the new State of residence."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the day which is 30 days after the date of the enactment of this Act.

#### DECONCINI AMENDMENT NO. 1727

Mr. DECONCINI proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the end of title I, insert:

#### SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES; INCREASE IN CORPORATE MINIMUM TAX RATE.

(a) ALLOWANCE OF CREDIT.—Subpart D of part V of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

#### "SEC. 45. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed \$150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly chargeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this section, the applicable recapture percentage shall be determined from the following table:

	The applicable recapture percentage is:	
"If the recapture event occurs in:		
Years 1-3 .....	100	
Years 4 .....	85	
Years 5 .....	70	
Years 6 .....	55	
Years 7 .....	40	
Years 8 .....	25	
Years 9 and 10 .....	10	
Years 11 and thereafter .....	0	

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE OF OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayers' interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the cred-

it shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) INCREASE IN CORPORATE MINIMUM TAX RATE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "20 percent" and inserting "20.3 percent".

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking "plus" at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(8) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Employer on-site day-care facility credit."

(d) 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 and after the date of the enactment of this Act.

(2) MINIMUM TAX.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1991.

DECONCINI AMENDMENT NO. 1728

Mr. DECONCINI (for himself, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill (H.R. 4210), supra; as follows:

On page 662, between lines 11 and 12, insert: (e) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(E) 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 unem-

ployment compensation is paid or the succeeding taxable year."

On page 662, line 12 strike "(e) and insert "(f)".

On page 961, line 24, strike "10 percent" and insert "10.04 percent".

KASTEN AMENDMENT NO. 1729

Mr. KASTEN (for himself, Mr. KOHL, Mr. BURNS, Mr. LOTT, and Mr. SHELBY) proposed an amendment to the bill (H.R. 4210), supra, as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the Family Farm Tax Relief and Savings Act of 1991.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—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 a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions which—

"(1) are to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs, and

"(2) are not in excess of the limits under subsection (c).

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset or rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual during a qualified period shall not exceed—

"(A) \$500,000 (\$250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds \$100,000.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The qualified contribution which may be made in any taxable year shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by \$10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '\$20,000' for '\$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) 50 percent or more of such trade or business is owned by the taxpayer (or his spouse) during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if he meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a qualified contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under paragraph, see section 6693(b)."

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of

1986 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 of such Code is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS".

(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)" in subparagraph (A).

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of enactment of this Act.

### SEC. 3. REVENUE PROVISIONS.

(a) ONE-YEAR EXTENSION OF CUSTOMS USER FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

(b) ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.—Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

(c) REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.—

(1) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)".

(ii) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

### GRASSLEY (AND OTHERS) AMENDMENT NO. 1730

Mr. GRASSLEY (for himself, Mr. FOWLER, Mr. PACKWOOD, Mr. BURNS, Mr. WELLSTONE, Mr. GORE, Mr. BRYAN, Mr. SIMON, Mr. WIRTH, Mr. AKAKA, Mr. KERRY, Mr. JEFFORDS, Mr. KERREY, Mr. LEAHY, Mr. HATFIELD, Mr. KENNEDY, Mr. BROWN, Mr. MCCAIN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. INOUE, Mr. LIEBERMAN, Mr. SANFORD, and Mr. ADAMS) proposed an amendment to the bill (H.R. 4210); supra; as follows:

At the appropriate place in the bill insert:  
SEC. . SENSE OF SENATE SUPPORTING TAX INCENTIVES FOR RENEWABLE ENERGY TECHNOLOGIES

(a) FINDINGS.—The Senate finds that—  
(1) the use of America's most plentiful energy resources such as wind, solar, geothermal and biomass energy represents one of the most effective means of reducing our reliance on imported energy, increasing our international competitiveness, and creating stable employment for our workforce,  
(2) these renewable energy sources currently contribute thousands of megawatts of electricity to our nation's energy supply,

(3) the increased use of renewable energy will displace polluting fossil fuels, thus reducing harmful air pollution and the emission of gases which contribute to environmental deterioration, and  
(4) comprehensive tax incentives are needed to enhance our nation's renewable energy technologies.

(b) SENSE OF SENATE.—It is the sense of the Senate that our national energy tax policy include a production tax credit for renewable energy in conjunction with a permanent business energy tax credit.

### SEYMOUR AMENDMENT NO. 1731

Mr. SEYMOUR (for himself, Mr. DOLE, and Mr. GRAMM) proposed an amendment to the bill (H.R. 4210); supra; as follows:

On page 958, strike all beginning with "section 3001" through line 12 on page 961.

### DOMENICI (AND OTHERS) AMENDMENT NO. 1732

Mr. DOMENICI (for himself, Mr. RUDMAN, and Mr. SPECTER) proposed an amendment to the bill (H.R. 4210); supra; as follows:

In lieu of the language proposed, to be inserted, insert:

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "High Value Economic Growth Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.

#### TITLE I—ECONOMIC GROWTH INCENTIVES

Sec. 101. Passive loss equity for real estate professionals.

Sec. 102. Special depreciation allowance for certain equipment acquired in 1992.

Sec. 103. Real property acquired by a qualified organization.

- Sec. 104. Special rules for investments in partnerships.
- Sec. 105. Credit for first-time homebuyers.
- Sec. 106. Penalty-free withdrawals from pension plans through 1992.

**TITLE II—REVENUE OFFSETS**

**Subtitle A—General Provisions**

- Sec. 201. Elimination of the statute of limitations on collection of guaranteed student loans.
- Sec. 202. Revision of procedure relating to certain loan defaults.
- Sec. 203. Application of medicare part B limits to FEHBP enrollee age 65 or older.
- Sec. 204. Disclosures of information for veterans benefits.

**Subtitle B—Electromagnetic Spectrum Function**

- Sec. 211. Short title.
- Sec. 212. Findings.
- Sec. 213. National spectrum planning.
- Sec. 214. Identification of reallocate frequencies.
- Sec. 215. Withdrawal of assignment to United States Government stations.
- Sec. 216. Distribution of frequencies by the Commission.
- Sec. 217. Authority to reclaim reassigned frequencies.
- Sec. 218. Competitive bidding.
- Sec. 219. Definitions.

**Subtitle C—Other Provisions**

- Sec. 221. Extension of current law regarding lump-sum withdrawal of retirement contributions for civil service retirees.
- Sec. 222. One-year extension of customs user fees.
- Sec. 223. Extension of the patent and trademark office user fee surcharge through 1996.

(c) 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.

**TITLE I—ECONOMIC GROWTH INCENTIVES**

**SEC. 101. 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).—

“(1) 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 December 31, 1992.

**SEC. 102. 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.—Except as provided in paragraph (2), 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 (without regard to paragraph (2)) before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) MAXIMUM FIRST-YEAR DEDUCTION.—Of the aggregate deduction allowable under paragraph (1)—

“(A) 0 percent shall be allowed for the taxable year in which the property is placed in service, and

“(B) 100 percent shall be allowed for the succeeding taxable year.

“(3) 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.—

“(1) 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 lease-back referred to in subclause (II).

“(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(1) 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 (1) 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.

**SEC. 103. 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 dis-

regarded 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. 104. 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.

#### SEC. 105. 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 in-

dividual 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. 106. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.**

(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) except as provided in subsection (b), 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) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(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 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 for a qualified acquisition 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.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(3) 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.

(4) 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 2-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.

**TITLE II—REVENUE OFFSETS**

*Subtitle A—General Provisions*

**SEC. 201. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.**

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26)

is amended by striking out "that are brought before November 15, 1992".

**SEC. 202. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.**

(a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

**SEC. 203. APPLICATION OF MEDICARE PART B LIMITS TO FEHBP ENROLLEE AGE 65 OR OLDER.**

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395-1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w-4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395l, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke ap-

appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations." and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h))."

(b) **MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.**—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code."

(c) **MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.**—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code."

(d) **MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.**—Section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) **LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH**

**BENEFITS PROGRAM.**—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2)."

(e) **EFFECTIVE DATES.**—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

**SEC. 204. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.**

(a) **IN GENERAL.**—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) **CONFORMING AMENDMENT.**—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on September 30, 1992.

**Subtitle B—Electromagnetic Spectrum Function**

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1992".

**SEC. 212. FINDINGS.**

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn

from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

**SEC. 213. NATIONAL SPECTRUM PLANNING.**

(a) **PLANNING ACTIVITIES.**—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) **REPORTS.**—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) **OPEN PROCESS.**—The Secretary and the Chairman will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

**SEC. 214. IDENTIFICATION OF REALLOCABLE FREQUENCIES.**

(a) **IDENTIFICATION REQUIRED.**—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to

the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

**(b) AMOUNT OF SPECTRUM RECOMMENDED.—**

(1) **IN GENERAL.**—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a target amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

**(2) MIXED USES PERMITTED TO BE COUNTED.—**

Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted toward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

**(c) CRITERIA FOR IDENTIFICATION.—**

(1) **NEEDS OF THE UNITED STATES GOVERNMENT.**—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2) (A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) **FEASIBILITY OF USE.**—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) **COSTS TO THE UNITED STATES GOVERNMENT.**—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) the delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) **NON-UNITED STATES GOVERNMENT USE.**—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) **PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—**

(1) **SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—**

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (A) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct

competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1992. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) **CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.**—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receive public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) **COMPOSITION OF COMMITTEE; CHAIRMAN.**—The private sector advisory committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) **RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.**—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee

on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) **TIMETABLE FOR REALLOCATION AND LIMITATION.**—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

**SEC. 215. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.**

(a) **IN GENERAL.**—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) **EXCEPTIONS.**—

(1) **AUTHORITY TO SUBSTITUTE.**—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) **GROUND FOR SUBSTITUTION.**—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) **CRITERIA FOR SUBSTITUTED FREQUENCIES.**—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) **DELAYS IN IMPLEMENTATION.**—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) **COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT; APPROPRIATIONS AUTHORIZED.**—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

**SEC. 216. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.**

(a) **PLANS SUBMITTED.**—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bidding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the dis-

tribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) **AMENDMENT TO THE COMMUNICATIONS ACT.**—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

“(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.”

**SEC. 217. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.**

(a) **AUTHORITY OF PRESIDENT.**—The President may reclaim reallocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) **PROCEDURE FOR RECLAIMING FREQUENCIES.**—

(1) **UNASSIGNED FREQUENCIES.**—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) **ASSIGNED FREQUENCIES.**—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) **COSTS OF RECLAIMING FREQUENCIES.**—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) **EFFECT ON OTHER LAW.**—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

**SEC. 218. COMPETITIVE BIDDING.**

(a) **COMPETITIVE BIDDING AUTHORIZED.**—Section 309 of the Communications Act is

amended by adding the following new subsection:

“(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

“(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

“(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

“(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

“(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

“(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

“(i) to ensure bidding access for small and rural companies,

“(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

“(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

“(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

“(2) Competitive bidding shall not apply to—

“(A) license renewals;

“(B) the United States Government and State or local government entities;

“(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

“(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

“(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

“(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

“(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

“(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

“(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.”

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING REQUIRED.—Section 309(i)(1) of the Communications Act is amended by striking the period after the word “selection” and inserting “, except in instances where competitive bidding procedures are required under subsection (j).”

(c) SPECTRUM ALLOCATION DECISIONS.—Section 303 of the Communications Act is amended by adding the following new subsection:

“(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.”

**SEC. 219. DEFINITIONS.**

As used in this subtitle:

(1) The term “allocation” means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term “assignment” means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term “Commission” means the Federal Communications Commission.

(4) The term “Communications Act” means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term “Secretary” means the Secretary of Commerce.

**Subtitle C—Other Provisions**

**SEC. 221. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out “October 1, 1995” and inserting in lieu thereof “October 1, 1996”.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out “October 1, 1995” and inserting in lieu thereof “October 6, 1996”.

**SEC. 222. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.**

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out “1995” and inserting “1996”.

**SEC. 223. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1996.**

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking “1995” and inserting “1996”;

(2) in subsection (b)(2) by striking “1995” and inserting “1996”; and

(3) in subsection (c)—

(A) by striking “1995” the first place it appears and inserting “1996”; and

(B) by adding at the end the following new paragraph:

“(6) \$107,000,000 in fiscal year 1996.”

**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—

“(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

“(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

“(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.”

(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 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

**PART VI—OZONE-DEPLETING CHEMICALS**

**SEC. 2271. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.**

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

“(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year	Base tax amount
1992	\$1.85
1993	2.75
1994	3.65
1995	4.55

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking “15” and inserting “13.5”, and

(B) by striking “10” and inserting “9.6”.

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking “1993, and 1994” and inserting “1993, 1994, and 1995, and July 1, 1992”.

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting “or July 1” after “January 1”, and

(ii) by inserting “or December 31, respectively,” after “June 30”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

“SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN STOCK OR SECURITIES.

“(a) GENERAL RULE.—Each stock or security held for resale to customers in the ordinary course of the taxpayer's trade or business at the close of the taxable year shall be treated as sold for its fair market value on the last business day of such taxable year and any gain or loss shall be taken into account for that taxable year.

“(b) BASIS ADJUSTMENT REQUIRED.—Proper adjustment shall be made to the taxpayer's basis in each stock or security so that any gain or loss subsequently realized is not recognized to the extent such gain or loss was previously taken into account by reason of subsection (a).

“(c) DERIVATIVE FINANCIAL INSTRUMENTS HELD BY DEALERS.—A taxpayer that is required by subsection (a) to treat stocks or securities held for resale to customers in the ordinary course of the taxpayer's trade or business as sold for their fair market value on the last business day of the taxable year shall—

(1) treat all derivative financial instruments held at the close of the taxable year as sold for their fair market value on the last business day of the taxable year, and

(2) properly adjust the amount of gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) STOCK OR SECURITIES DEFINED.—The term ‘stock or securities’ shall include stock or securities as defined in section 851(b)(2), 1091(a), or 1236(c), and national principal contracts.

“(2) DEALERS OR TRADERS IN NOTIONAL PRINCIPAL CONTRACTS.—A dealer or trader in notional principal contracts shall be treated as holding such contracts for resale to customers in the ordinary course of its trade or business.

“(3) DERIVATIVE FINANCIAL INSTRUMENTS DEFINED.—The term ‘derivative financial instruments’ includes commodities, options, forward contracts, futures contracts, national principal contracts, short positions securities, and any similar financial instrument.

“(4) SECTION 263A SHALL NOT APPLY.—The cost capitalization rules of section 263A shall not apply to stock, securities, or derivative financial instruments accounted for under this section.

“(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 effect of this section.”

(b) CONFORMING AMENDMENT.—Subsection (b) of section 471 is amended to read as follows:

“(b) CROSS REFERENCES.—

“(1) For rules relating to the inventory method that conforms to the best accounting practice for dealers in stock or securities, see section 475.

“(2) For rules relating to capitalization of direct and indirect costs of property, see section 263A.”

(c) 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. Conform tax accounting to financial accounting for securities dealers.”

(1) 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 each stock or security to which the amendments of this section apply at its fair market value 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.

REID AMENDMENT NO. 1733

Mr. REID proposed an amendment to the bill (H.R. 4210); supra; as follows:

On page 926, after line 19, insert the following:

SEC. . TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) 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 water or sewerage disposal services if—

“(A) such amount is a contribution in aid of construction,

“(B) in the case of contribution of property other than 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 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 this 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 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 utility which is not required to provide water or sewerage disposal services to members of 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, any 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) STATE 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."

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) **DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST.**—

**BENTSEN AMENDMENTS NOS. 1734 AND 1735**

Mr. BENTSEN proposed two amendments to the bill (H.R. 4210); *supra*, as follows:

**AMENDMENT NO. 1734**

At the appropriate place insert the following:

Amend section 120(e) of the Internal Revenue Code of 1986 to strike "June 30, 1992" and insert in lieu thereof "December 31, 1993".

**AMENDMENT NO. 1735**

At the appropriate place, insert the following new section:

**SEC. . AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.**

(a) **FINDINGS AND PURPOSES.**—

(1) **FINDINGS.**—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressional appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) **PURPOSES.**—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and for the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) **ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) **ESTABLISHMENT.**—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than December 31, 1992.

"(b) **SCOPE OF THE CENTER.**—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) **CONSULTATION; SELECTION CRITERIA.**—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) **PROGRAMS AND ACTIVITIES.**—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstand-

ing scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) **DEFINITIONS.**—For purposes of this section—

"(1) **WESTERN HEMISPHERE COUNTRIES.**—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) **INSTITUTION OF HIGHER EDUCATION.**—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) **FEEES FOR SEMINARS AND PUBLICATIONS.**—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver."

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

**NOTICE 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 Wednesday, April 1, 1992, beginning at 2 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 1174, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado;

S. 1537, to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail; and

S. 1704, to improve the administration and management of public lands, national forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Public Lands, National Parks and Forests, Committee on En-

ergy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact David Brooks of the subcommittee staff at (202) 224-9863.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN  
MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion will hold a hearing on domestic origin requirements, end-use certificates legislation (S. 1993). The hearing will be held on Tuesday, March 24, 1992, at 10 a.m. in SR-332. Senator KENT CONRAD will preside.

For further information please contact Kent Hall at 224-2043.

AUTHORITY FOR COMMITTEES TO  
MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, March 13, 1992, at 9:30 a.m., in open session, to receive testimony from the unified, specified, and supporting commands on their military strategy and operational requirements, and the amended defense authorization request for fiscal year 1993 and the future year defense plan; and to consider the nomination of Gen. John M. Loh, USAF, to be commander of the U.S. Air Force Air Combat Command.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on March 13, 1992, at 10 a.m., to hold a hearing on structural impediments initiative.

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

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF THE  
DEDICATION OF OUR LADY OF  
GUADALUPE CHURCH, PERALTA,  
NM

• Mr. DOMENICI. Mr. President, I rise today to bring attention to a landmark date in the unique history of my home State of New Mexico. Today, March 13, the people of Our Lady of Guadalupe Parish in Peralta are celebrating the 100th anniversary of the dedication of their parish. I believe that the church of Our Lady of Guadalupe is a living testimony to New Mexico's diverse, multicultural history.

In the mid-1850's, the Baptist community in the area constructed a Protes-

tant church directly adjacent to the Catholic Church. In fact, due to the hostile relations between these two religious groups, it is said that Protestants were found ringing the bells during the Catholic services as a method of disruption.

On Sunday mornings the wagons and buggies owned by local parishioners could be seen outside the church where people would walk for miles to listen to Father Ralliere, the first parish priest in 1872. Official construction of the church began in 1879 on donated land formally deeded to the church in 1878. Many destructive floods deterred the construction of the church, yet after 9 years, the parish was completed.

Traditionally, the Peralta churches are dedicated to Our Lady of Guadalupe. I think it is interesting to note that there are two stories associated with the vision of Our Lady of Guadalupe. According to one source, the word Guadalupe is of the Spanish-Nahuatl dialect, coming from the words "coatlalope" or "tecoatlapenh" which means "the one who treads on snakes." This involves the vision a peasant Juan Diego had of the Virgin Mary at Tepeyac in 1531. The Catholic religion says the symbolism of Diego's vision is a representation of the Virgin Mary's victory over Original Sin.

Another theory is that the word Guadalupe derived from the Moors and came to the new world in the 16th century. Although there are many reproductions of it, the original picture of Our Lady of Guadalupe can currently be seen in the Basilica in Mexico City.

What makes the church in Peralta so unique are the beautiful cruciform buttresses, providing structural support for the main walls. Built on a hill to reduce flood damage, it was initially constructed of adobe and topped with woven branches and a manta which is a cheesecloth-like material soaked in flour and water, then insulated with a layer of soil. In 1892, the bell was purchased and it hung in the center of the church with the cord hanging outside the door. Father Ralliere reroofed the church in 1912 and the bell was enclosed. Choir lofts were added, insulation was improved, chandeliers were installed, wood stoves were replaced with gas furnaces, and new pews were donated.

Clearly this church is rich in history and serves as an important and cherished part of the community. Throughout the century that Our Lady of Guadalupe Parish has been serving its congregation, it has become an institute of faith and dedication to Peralta and New Mexico. The bell still rings every Sunday morning for Mass, yet this ringing no longer symbolizes rebellion, but the unity and sense of community spirit of over one thousand families who join together to hear the current Pastor, Monsignor Sipio Salas who continues to inspire the people of

Peralta with the same enthusiasm Father Ralliere shared 100 years ago.

I know the congregation is very happy to celebrate this day and I send my warmest congratulations to Archbishop Sanchez, Father Salas, and Deacon Joe Trujillo on this momentous and very special occasion. •

SOCIAL SECURITY EARNINGS TEST

• Mr. MCCAIN. Mr. President, I rise to address an issue that is of critical importance to our Nation's elderly, the Social Security earnings test.

As my colleagues will remember, on November 12, the Senate passed an amendment by voice vote during consideration of the Older Americans Act reauthorization bill that would repeal this onerous and discriminatory law. Yet, here we are 4 months later and the conference has yet to meet to address this issue.

The reason is the House leadership has not appointed conferees.

It is unconscionable that we have permitted 4 months to elapse without this critical issue being addressed. As a consequence, not only is the Social Security earnings test repeal being held hostage, so is the Older Americans Act reauthorization bill.

We are currently considering an economic growth package that deals with the Tax Code. The Social Security earnings test is a tax issue, plain and simple. It is an issue of fairness and discrimination.

For some time, I have been contemplating the possibility of offering an amendment to this bill to repeal the Social Security earnings test. It is a measure that has received overwhelming support in this body, and it would have been appropriate to attach it to this measure. But, the fact is, this measure is going nowhere—it is going to be dead on arrival when it gets the President's desk.

What is more, I believe the earnings test issue really ought to be dealt with within the context of the Older Americans Act. But, if action does not come soon, I indeed will be coming to the floor to move this issue on another bill.

Mr. President, I was deeply disappointed on March 11 when I opened the Washington Post to find a staff editorial titled the "Senate Attacks ET."

This editorial claimed that those of us pushing this measure, and this Senator in particular, were doing it on the assumption that the conferees will later bail us out. That may be the way some operate, but don't count this Senator among them. This is an issue about which I feel very strongly, and I am dead set on pursuing it through to its completion.

Mr. President, in spite of the views of the Washington Post editorial staff, this is an issue of fundamental fairness to those seniors who either want or have to work.

Under the Social Security earnings test, for every \$3 earned by a retiree over the \$10,200 limit, he or she will lose \$1 in Social Security benefits this year.

Mr. President, most Americans are shocked and amazed to discover that older Americans are actually penalized for their productivity. No American should be discouraged from working. Every individual's desire and ability to contribute to society should be encouraged. Yet, the earnings test arbitrarily mandates that a person retire at age 65 or face losing benefits. This is plainly age discrimination; this is plainly wrong.

Most importantly, many of them must work to meet even the most basic expenses. A significant portion of the elderly population does not have private pensions or liquid investments—which, by the way, are not counted as earnings—from their working years. Low income workers are particularly hard hit by the earnings test for this reason. They are much less likely to be eligible for employer pension benefits and to have saved enough for retirement.

Those who did put aside savings or investments for their retirement years often see these funds dissipated overnight as a result of unanticipated circumstances, such as their own or a spouse's illness. Health care costs, rising at an astronomical rate, are an expense all Americans are having trouble meeting.

Mr. President, the earnings test effectively prevents our Nation's senior citizens from working to pay these costs, or indeed any others, such as food and shelter. The value of a \$5 dollar an hour job, subject to the earnings test, plummets to only \$2.20 after taxes. The earnings test translates into an effective tax burden of 33 percent. Combined with Federal, State, and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent—Federal tax, 15 percent; FICA, 15.3 percent; earnings test penalty, 33 percent; State and local tax, 5 percent.

This type of harsh penalty is obviously a tremendous disincentive to work. No one who is struggling along at \$15,000, \$20,000, or \$30,000 a year wants to face an effective marginal tax rate of almost 70 percent. And, in fact, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. These people are desperately trying to get ahead, and to sustain a decent life in their retirement years, without hitting the limit.

It would not be costly to allow these people to work for the additional income they need. On the contrary, studies have found that eliminating the earnings test could net \$140 million in extra Federal revenue. Furthermore, the earnings test is costing us \$15 bil-

lion a year in reduced production. Taxes on that lost production could help to reduce the massive Federal budget deficit.

This is an issue of basic fairness. The earnings test is outdated, unjust, and clearly discriminatory. Over and over again, the Washington Post has editorially railed against discrimination, but I am baffled by the fact that they advocate for continuation of this most egregiously discriminatory policy.

Perhaps they ought to consider the diverse organizations which back eliminating the earnings test:

COALITION FOR REPEAL OF SOCIAL SECURITY EARNINGS TEST

(As of Jan. 22, 1992)

Coalition of nearly 40 seniors organizations and businesses and business groups, representing tens of millions of seniors and employees across this country.

SENIORS GROUPS

- National Committee to Preserve Social Security and Medicare.
- Seniors Coalition.
- The Retired Officers Association.
- National Association of Retired Federal Employees.
- National Military Family Association.
- Seniors Cooperative Alert Network.
- Air Force Association.
- United Seniors of America.
- Air Force Sergeants Association.
- Association of Military Surgeons.
- Association of U.S. Army.
- Enlisted Association of the National Guard of the U.S.
- Fleet Reserve Association.
- Jewish War Veterans of the U.S.
- Marine Corps League.
- Marine Corps Reserve Officers Association.
- National Association for Uniformed Services.
- Naval Reserve Association.
- Naval Enlisted Reserve Association.
- Navy League of the U.S.
- The Retired Enlisted Association.
- U.S. Coast Guard CPO Association.

EMPLOYERS AND BUSINESS GROUPS

- U.S. Chamber of Commerce.
- Sears Roebuck and Company.
- National Association of Temporary Services.
- National Tax Limitation Foundation.
- National Federation of Independent Business.
- National Restaurant Association.
- American Federation of Small Business.
- National Technical Services Association.
- Walgreens Company.
- Retired Police Assn. of Chicago.
- American Farm Bureau.
- National Small Business United.
- American Health Care Association.
- Days Inn of America, Inc.
- National Society of Public Accountants.
- Citizens for a Sound Economy.
- National Council of Chain Restaurants.

Mr. President, this is an issue of fairness. The Post asserts that this would be a windfall to the wealthy.

I will tell you what is a windfall to the wealthy. It is individuals like the former publisher and current chairman of the board of the Washington Post, who can collect full Social Security benefits in spite of her millions of dollars of stock holdings and other liquid

investments. What is more, her Social Security benefits could well exceed \$1,000 a month.

What is not a windfall is the situation of the lower or middle income senior, with little if any pension or investment income, trying to survive on \$350 or \$400 in Social Security benefits. When this person loses a portion of his or her Social Security benefits because he or she has to go back to work in order to pay the hospital bills of a sick spouse, they are not seeking a windfall. They are seeking the means to survive.

If the Washington Post wants to talk about the real issue of fairness with regard to the Social Security earnings test, perhaps it ought to focus on its own. But, perhaps that would not be as much fun.●

THE 50TH ANNIVERSARY OF THE ESTABLISHMENT OF THE U.S. CANINE CORPS

● Mr. MACK. Mr. President, I join my colleagues in the Senate today in paying tribute to the unique contributions made by the brave soldiers of the U.S. Canine Corps, which celebrates its 50th anniversary today. Together with their military dogs, these men and women have played a vital role in our Nation's military efforts to defend freedom at home and abroad.

Since the days of ancient Greece and Rome, man and dog have fought side by side on battlefields throughout the world. The Spanish used dogs to help them conquer the New World, and American troops have trained dogs for use in both World Wars. During World War II, many American families donated their dogs to help the war effort. More than 125,000 teams were mobilized for the Army, Marines, and Coast Guard. The teams were used for guarding, messenger work, transporting wounded soldiers from the front lines to medical units, and transporting freight. Following the war, the dogs were retrained as pets, and returned to their families.

Even in modern warfare, the special relationship between man and military dogs continues. In Operation Desert Storm, some 125 canines were stationed alongside American troops in Saudi Arabia, serving with every branch of the military. While soldiers have been training dogs for explosive detection since the early 1970's, this was their first use of detection dogs during wartime. Virtually every military aircraft and installation in the desert was inspected by the Canine Corps for the possibility of hidden bombs.

In addition, the Canine Corps played an invaluable role in patrol duty. Military dogs were used to detect intruders and subsequently defend the assigned area when their instructors commanded them to attack. The corps was used, both before the hostilities began and during the Allied offensive, to

guard areas where aircraft, medical supplies, and ammunition were based to prevent enemy intrusion and theft. They were also called into action to guard the vast number of prisoners of war taken by Allied forces. It is also worth noting that there were no casualties, either soldiers or dogs, suffered by the Canine Corps.

Whether it is in the sporting field, leading the blind, guarding property and livestock, assisting the disabled, bomb and drug detection, or as a first-rate companion, dogs have served mankind in a variety of ways. The special relationship between dogs and the members of the Canine Corps is yet another example of why the dog is called "man's best friend." It is my pleasure to extend my congratulations to the Canine Corps as it celebrates its 50th anniversary of service to America.●

#### TRIBUTE TO FREDERICK W. BURKLE

● Mr. SHELBY. Mr. President, I rise today in recognition of CWO Frederick W. Burkle, of Foley, AL, who recently retired from the U.S. Naval Reserve after 37½ years of service.

On January 29, 1992, Warrant Officer Burkle officially retired from the Naval Reserve. Warrant Officer Burkle's career began in the Naval Air Reserve in New York in 1951 as a weekend warrior. Since that time, Mr. Burkle has served in active duty for the Navy and in the Naval Reserve in a number of different capacities over the years.

His military decorations include the Navy Enlisted Air Crew Wings, the Navy Achievement Medal, the Coast Guard Meritorious Unit Commendation with distinguishing device and gold star, the Navy Battle Efficiency "E" Ribbon, the Naval Reserve Meritorious Service Medal with one bronze star, the Coast Guard Special Operations Service Ribbon, the Navy and Marine Corps Overseas Deployment Service Ribbon, and the Armed Forces Reserve Medal with two hour glasses.

Mr. President, in addition to his distinguished military career, it is worth noting that Mr. Burkle has served his community of Foley, AL, with equal diligence and honor. He has served as chairman of the city of Foley Planning Commission, president of the Foley Volunteer Fire Department, and president of the Alabama State Firearms Association to name a few of his many contributions. To this day, Mr. Burkle continues to serve his community and country in many ways.

Perhaps Mr. Burkle's most impressive accomplishment is that upon his retirement in January, he was the most senior warrant officer in the entire U.S. Navy. Mr. Burkle is to be commended and admired for his valuable and inspirational service to the United States. The world has changed

dramatically since Mr. Burkle enlisted in the military over 40 years ago, and his service has been vital to the success the United States has realized in defeating communism and winning the cold war.

Mr. President, because of men like CWO Frederick Burkle, future generations of soldiers and Americans will have a better world in which to live. I appreciate the legacy Mr. Burkle has left for posterity, and I wish him a long and enjoyable retirement.●

#### MINORITY SCHOLARSHIPS

● Mr. SIMON. Mr. President, this past Monday was the Department of Education's deadline for filing comments in response to the Department's proposed policy on minority scholarships. I am pleased that 20 of my colleagues joined me in submitting comments that express grave concern about the Department's proposal.

Federal agencies should not be raising barriers to colleges' efforts to promote campus diversity. Though minority scholarships are a very small fraction of overall financial aid and have virtually no impact on other students, they are an important welcome mat for minority students, particularly those interested in careers where there are few minority role models.

One important example is the teaching profession. Last September Illinois Gov. Jim Edgar signed a bill providing scholarships to encourage African-American and Hispanic college students to pursue teaching. This is not to say that minority students must have minority teachers. But there is such a death of minorities going into teaching particularly in certain disciplines, that it is possible for some students to go through elementary and high school in Illinois and never see or hear of a math or science teacher who is African-American or Hispanic. This sends a bad message to all students.

When the Secretary of Education issued the proposed policy in December, many of us were optimistic. His press release made it sound as if there would be no major change in the policy that had existed prior to the infamous Fiesta Bowl letter of the previous December. Unfortunately, when we looked at the details of the new proposed policy, there was little improvement, and some very disturbing additions.

In brief, the proposed policy: First, ignores the Department's own regulations, as well as relevant case law, allowing voluntary measures to promote racial diversity and to address underrepresentation and historical discrimination;

Second, misconstrues Congress' intent in creating a number of Federal minority scholarship programs; and

Third, creates new loopholes, clearly not allowed by title VI, that could, in effect, provide a roadmap for wholesale violations of Federal civil rights laws.

We are not alone in these interpretations. In addition to a broad spectrum of education and civil rights organizations, the U.S. Commission on Civil Rights, an independent, bipartisan, factfinding agency of the executive branch, has also asked the Department to reconsider the misguided policy.

Mr. President, I ask that the comments that I submitted with my colleagues, as well as the comments and addendum submitted by the U.S. Commission on Civil Rights, be printed in the RECORD at this point.

The material follows:

U.S. SENATE,

Washington, DC, March 9, 1992.

MICHAEL WILLIAMS,  
Assistant Secretary, Office for Civil Rights, U.S.  
Department of Education, Washington, DC.

DEAR MR. WILLIAMS: Attached please find our comments on the Proposed Policy Guidance on minority scholarships, in response to the Federal Register notice of December 4, 1991.

Cordially,

Edward M. Kennedy, Bill Bradley, Bob Graham, Tim Wirth, Christopher Dodd, Paul Simon, Paul Wellstone, Tom Harkin, Carl Levin, Claiborne Pell.

Jeff Bingaman, Barbara Mikulski, Bob Kerrey, John Kerry, Don Riegle, Brock Adams, Daniel Akaka, Howard Metzenbaum, Alan Cranston, Dennis DeConcini.

U.S. SENATE,

Washington, DC, March 10, 1992.

MICHAEL WILLIAMS,  
Assistant Secretary, Office for Civil Rights, U.S.  
Department of Education, Washington, DC.

DEAR MR. WILLIAMS: I am writing to state my full support of the attached comments by twenty of my Senate colleagues to the Proposed Policy Guidance on minority scholarships, in response to the Federal Register notice of December 4, 1991.

Cordially,

AL GORE,  
U.S. Senator.

COMMENTS BY CERTAIN MEMBERS OF THE U.S. SENATE ON THE DEPARTMENT OF EDUCATION'S NOTICE OF PROPOSED POLICY GUIDANCE

#### I. INTRODUCTION

The Department of Education's Proposed Policy Guidance on minority scholarship programs is fundamentally flawed and should not be adopted. It would signal a dramatic retreat from the bipartisan support for minority scholarships that has marked both Republican and Democratic administration alike for at least two decades, and which is reflected in the Department's own regulations. The need for minority scholarships is compelling, and they have little or no impact on non-minority students. Minority scholarships are and should continue to be legal and appropriate under Title VI of the Civil Rights Act of 1964.

The Department's decision to suddenly question the legality of minority scholarships is astonishing. It ignores the historic and tragic discrimination against and underrepresentation of racial minorities in institutions of higher education. Curiously, the Department has displayed no interest whatsoever in exploring the legality of the many scholarship funds based on national origin, which is also covered by Title VI, or of those based on gender, which is covered by Title

IX. Nor has the Department questioned the prevalence of scholarships which have the effect of discriminating against minorities. Only those scholarship funds which specifically benefit racial minorities have been called into question.

In its insistence on declaring minority scholarships illegal under Title VI, while still affirming the legality of some of those scholarships in certain circumstances, the Department is forced to embrace theories which threaten to undermine fundamental principles of civil rights law. The Proposed Policy Guidance would incorrectly restrict the legal ability of higher education institutions to take voluntary remedial or affirmative action in order to remedy past discrimination or historical underrepresentation, or to promote racial diversity. Moreover, the Proposed Policy Guidance would distort current civil rights law by: 1) finding minority scholarships discriminatory against non-minorities, but then explicitly encouraging practices that, by the Department's reasoning, would have a discriminatory impact on those non-minorities; and 2) inventing a distinction based on the source of funding for a program, in direct contradiction to the Civil Rights Restoration Act passed by Congress in 1988, in an apparent effort to protect scholarships that benefit other groups but exclude most racial minorities.

In sum, minority scholarships are legal, appropriate, and a valuable tool to address a compelling need. The Department's proposal to declare them illegal is without foundation. The Department's creation of loopholes to then render some minority scholarships legal again undermines fundamental principles of civil rights law. The Proposed Policy Guidance should be withdrawn.

## II. THE PROPOSED POLICY GUIDANCE IS FUNDAMENTALLY FLAWED AND SHOULD NOT BE ADOPTED

### A. Minority scholarships are lawful

Minority scholarships are lawful and appropriate, both as a voluntary remedial measure to overcome the effects of past discrimination and as an affirmative action measure to promote diversity and counter underrepresentation. Minority scholarships have been approved by the courts and by the Education Department's Office for Civil Rights (OCR) in administrative proceedings. OCR has explicitly stated, "[s]tudent financial aid programs based on race or national origin may be consistent with Title VI if the purpose of such aid is to overcome the effects of past discrimination." Memorandum to Presidents of Institutions of Higher Education Participating in Federal Assistance Programs, Summary of Requirements of Title VI of the Civil Rights Act of 1964 for Institutions of Higher Education (June 1972).

The Proposed Policy Guidance acknowledges that "[a] college may award race-exclusive scholarships when this is necessary to overcome past discrimination." However, this statement erroneously implies that this is the *only* justification for minority scholarship programs. In addition, the statement wrongly suggests that minority scholarships should be limited to situations where a court or administrative agency has made a *finding* of past or present discrimination. Such a limitation fails to address the problems caused by underrepresentation and lack of diversity at institutions not subject to such a finding. "[M]inority students are underrepresented \* \* \* [at] most if not all, the universities that award minority scholarships." *Lost Opportunities* at 67. The proposed limitation simultaneously encourages class action litigation and discourages voluntary settle-

ment because minorities would need to obtain a finding of discrimination or a court-approved settlement agreement in order to be entitled to minority scholarships.

The fact is that even in the absence of a showing of intentional discrimination, Supreme Court holdings and Title VI regulations support the use of minority scholarships to address underrepresentation caused by practices that have had the effect of limiting participation by minorities. See *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 16 (1971) (approving broad discretion by school authorities to seek some racial balance as a matter of educational policy); *Guardians Association v. Civil Service Commission of New York City*, 463 U.S. 582, 608 (1983) (approving use of Title VI regulations to remedy practices that have had the effect of excluding minorities).

The Supreme Court has approved voluntary affirmative action measures where past discrimination or current practices have resulted in the continuing exclusion of minorities in a traditionally segregated field. See *Johnson v. Transportation Agency, Santa Clara County*, 480 U.S. 616, 632 (1987).

Furthermore, the Department's own regulations implementing Title VI specifically authorize both remedial and affirmative action programs:

"In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

"Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin."—34 CFR §100.3(b)(6)(i)-(iii) (1990).

Therefore, higher education institutions which have used admissions criteria or practices which exhibit racial or cultural bias, or recruitment procedures that limit or exclude participation by minority students, can institute and administer minority scholarships as a method of more effectively recruiting minority students. Where financial aid has been allotted on the basis of criteria which disproportionately exclude minorities, such as scholarships for students of a particular religion or ethnic background, minority scholarships are appropriate to address this bias and counter the funding deficit created by these programs. Many purportedly neutral scholarships have a disparate impact on minority students, such as scholarships for children of alumni at institutions where minorities have been historically underrepresented, and scholarships for students from states with low minority populations. Cf. *Sharif v. New York State Education Department*, 709 F. Supp. 345 (S.D.N.Y. 1989) (Regents and Empire State scholarships based solely on SAT scores discriminate against women; holding equally applicable to minorities). Because these scholarships, in effect, discriminate against minorities, minority students do not receive their fair share of other targeted funds.

### B. Minority scholarships are appropriate

Even in the absence of past discrimination or current practices limiting minority participation, minority scholarships are an appropriate method of promoting diversity. *Bakke v. Regents of the University of California*, 438 U.S. 265 (1978). In *Bakke*, Justice Powell found the promotion of diversity was a "constitutionally permissible goal for an institution of higher education." *Id.* at 312,

that justified the consideration of race as a competitive factor in a university admissions program consistent with Title VI. A diverse student body promotes the "atmosphere of 'speculation, experiment and creation'" that is "so essential to the quality of higher education \* \* \*." *Id.* In promoting diversity, schools "must be viewed as seeking to achieve a goal that is of paramount importance in the fulfillment of [their] mission." *Id.* at 313. "[T]he 'nation's future depends upon leaders trained through wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples." *Id.*

The Supreme Court recently reaffirmed that "a 'diverse student body' contributing to a 'robust exchange of ideas' is a 'constitutionally permissible goal' on which a race-conscious university admissions program may be predicated." *Metro Broadcasting, Inc. v. FCC*, 110 S. Ct. 2997 (1990). Diversity furthers a compelling government interest similar to the duty to desegregate, and serves important values protected by the First Amendment.

The Proposed Policy Guidance acknowledges that diversity is a legitimate goal, but only in the most general and trivial sense of the term. Minority scholarships would still be prohibited as a specifically targeted tool to promote racial diversity. Instead, race may only be recognized if it is one among many other factors weighed in an effort to promote a generalized vision of diversity. Diversity of "experiences" and "opinions" is just as important, under the Proposed Policy Guidance, as racial diversity, and must be included in any program intended to promote diversity. Not only is this contrary to settled law that race-conscious remedies are appropriate to promote diversity, but it leads to the ludicrous conclusion that a school's responsibility to promote racial diversity is on a par with the duty to recruit liberals to a traditionally conservative college campus. The legal affirmation of racial diversity as a compelling and legitimate interest is far more specific and concrete than the Proposed Policy Guidance recognizes.

The Department's theory seems to be that minority scholarships are an unlawful means of promoting diversity, analogous to the single-factor admissions quotas that failed to satisfy Justice Powell's inspection in *Bakke*. However, the *Bakke* distinction between affirmative action programs in which race is the single factor and programs in which race is only a "plus" factor is based primarily on the differences in the degree of burden that each type of program imposes. Resonating throughout Justice Powell's opinion is the idea that non-minorities excluded from a school through the operation of an admissions quota suffer a more concrete harm than those excluded by a flexible, goal-oriented program relying on plus factors. "[T]he applicant who loses out on the last available seat to another candidate receiving a 'plus' on the basis of ethnic background will not have been foreclosed from all consideration for that seat simply because he was not the right color or had the wrong surname." *Bakke*, 438 U.S. at 318.

There are fundamental differences between admission decisions and financial aid programs. An admissions decision is necessarily an all-or-nothing decision. The admission of one student precludes the admission of another; the admitted student therefore benefits at the expense of another. W. Bowen and N. Rubenstein, "Colleges Must Have the Flexibility to Designate Financial Aid for Members of Minority Groups," *Chronicle of Higher Education* B1, Jan. 9, 1991 ("Bowen &

Rubenstein"). In contrast, an institution-wide financial aid program does not involve "all-or-nothing" decisions. In allocating financial aid resources, and institution need not turn one student's gain into another's loss. *Id.* A financial aid program provides resources on the basis of need to all eligible students after the admissions decision is made. Scholarships, on the other hand, are designed to enhance recruitment and retention for specific targeted populations. Foreclosing a student from a minority scholarship does not affect that student's enrollment, and the student will remain eligible for a full financial aid package, drawn from the great majority of the school's other financial aid resources. Any burden that non-minorities bear as a result of minority scholarships is not comparable to the exclusionary result of the admissions quota system in *Bakke*.

Any impact that minority scholarships may have on non-minorities is minimal and greatly diffused among other students receiving financial aid. Minority scholarships have little or no impact on the amount of financial aid available to non-minority students. As the Department acknowledges, the scholarships that the Proposed Policy Guidance would prohibit are an exceedingly small percentage of the total aid available to students. The Supreme Court has ruled that "[w]hen effectuating a limited and properly tailored [plan] \* \* \* a 'sharing of the burden' by innocent parties is not impermissible." *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 281 (1986).

Because of the significant differences between minority scholarships and admissions quotas, OCR after *Bakke* "concluded that no changes in the regulations [affecting minority scholarships] are required or desirable." OCR Affirmative Action Policy Interpretation 44 Fed. Reg. 58,509 (1979). Nothing has happened since 1979 to cast any doubt on this analysis. During the 1980's, OCR has twice relied on *Bakke* in reaffirming that minority scholarships did not violate Title VI. See Letter from Robert Randolph, Acting Director, OCR, Region I, to the Complainant in file number 01-80-2046 (September 30, 1981) (MIT minority tuition fellowship program); Letter from Antonio J. Califa, Director for Litigation, Enforcement and Policy Service, to Robert A. Randolph, Acting Director, OCR, Region I (September 11, 1981) (same); Letter from Joan Standlee, Deputy Assistant Secretary for Civil Rights, to Gilbert D. Roman, Regional Director, OCR, Region VIII (March 22, 1983) (University of Denver minority scholarship program). Prior to OCR's current campaign to curtail minority scholarships, OCR had never expressed the view that *Bakke* prohibits minority scholarships. Nor should *Bakke* now be so construed.

#### C. Minority scholarships are a valuable tool

The disparity in access to higher education between minorities and non-minorities remains intolerably high. These disparities have only grown worse in the last decade. Between 1981 and 1989, the percentage of bachelor's degrees awarded to blacks dropped from 6.5 to 5.7, and the percentage of doctoral degrees dropped from 5.8 to 4.6 American Council on Education, *Minorities in Higher Education: Ninth Annual Status Report* January 1991.

Minority scholarship programs are vital weapons in the fight against underrepresentation of minorities in higher education. Despite the fact that most financial aid is provided on the basis of need, there is still a significant gap between the college-going rate of minorities and non-minorities. See Amer-

ican Council on Education, *Minorities in Higher Education: Tenth Annual Status Report* 8-10 January 1992. In graduate programs, where need can be demonstrated by virtually every student, minority participation is even lower. *Id.* at 45. Retention in all programs is also particularly low for minority students. For example, while minorities constituted 20 percent of undergraduate enrollment in 1989, they received less than 13 percent of bachelor's degrees. There are similar patterns in graduate, professional and doctoral programs. *Id.* at 45-50. In a study of student retention, college officials cited "financial difficulties" more than any other factor as "very important" to students' decisions to leave without completing their degrees. Nearly two-thirds of the institutions surveyed said that financial assistance had a great impact on improving retention. See Planning and Evaluation Service, U.S. Department of Education, *Survey on Retention at Higher Education Institutions* 6 and 13 November 1991. Race-neutral, wholly need-based aid programs have not remedied underrepresentation or effectively enhanced diversity. See Citizens' Comm'n on Civil Rights, *Lost Opportunities: The Civil Rights Record of the Bush Administration Mid-Term* at 67 (1991) ("Lost Opportunities").

#### D. Congress intended to authorize minority scholarships

The Proposed Policy Guidance states that "Congress may create exceptions to Title VI." Although this is accurate, it is misleading. The Department seeks to characterize statutorily-created minority scholarships as "exceptions" to the general rule—that such programs are prohibited under Title VI. This mischaracterizes the statutory mandate. In enacting Titles VI and IX, Congress authorized minority and gender-based scholarships—not as "exceptions" to the general rule, but rather as examples of it. Congressionally-authorized minority scholarships are proof not only that Congress intended to allow such programs, but that Congress thought them an appropriate method of fulfilling the Congressional mandate of those statutes. The Department's position ignores this clear Congressional mandate. It also flies in the face of the general rule of statutory construction which requires that different statutes be read in a way that is harmonious and consistent, and which avoids unnecessary conflict between their respective provisions. See generally *United States v. Caldera-Herrera*, 930 F.2d 409, 144 (5th Cir. 1991); *Anderson v. FDIC*, 918 F.2d 1139, 1143 (4th Cir. 1990). It is much more consistent with this canon of statutory construction, not to mention the actual intent of Congress, to read Title VI as allowing minority-targeted scholarship programs of all sorts, whether or not Congressionally enacted. This is particularly true in light of OCR's decades-long construction of Title VI to permit such minority scholarships.

#### III. THE PROPOSED POLICY GUIDANCE CREATES LOOPHOLES THAT COULD UNDERMINE TITLE VI JURISPRUDENCE

##### A. The proposed policy guidance is confusing with respect to disparate impact analysis

In the Department's strained effort to apply title VI prohibitions to minority scholarships, the Proposed Policy Guidance would create a distinction between a scholarship that is for minorities on its face, which the Department considers illegal, and one that appears neutral but in practice goes only to minority students, which the Department encourages. Because the Department refuses to affirm minority scholarships as a legiti-

mate affirmative action program, it is forced to recreate the distinction between *de jure* and *de facto* discrimination, even when intentional. We are concerned that longstanding policies against practices that have a disparate impact on minorities could be threatened by the Department's analysis. (For example, this reasoning could allow a college to give aid only to students from counties with low minority populations. While the college would arguably be in compliance with the Proposed Policy Guidance, Title VI was clearly written to root out this type of discrimination).

Upon release of the Proposed Policy Guidance, the Secretary stated that colleges can "make special efforts to grant scholarships to minority students." The first principle noted in the Proposed Policy Guidance itself says that "[c]olleges may make awards to disadvantaged students without regard to race even if that means that such awards go disproportionately to minority students." As this is the first and only time that the Proposed Policy Guidance uses the term *minority* instead of *race*, the Department must intend to allow programs with an intentional disparate impact if it benefits minorities. It would appear, then, that the Department agrees with our argument in part II of this comment: that colleges may take voluntary affirmative action through programs designed to benefit minority students where such students have faced historical discrimination or are otherwise underrepresented. This explanation is consistent with past OCR findings, Title VI regulations, and court decisions. In so doing, the Department effectively concedes any showing of "educational necessity" required under settled case law on disparate impact. Indeed, by condoning practices which are intentionally discriminatory, facially neutral, and have a disparate impact, the Department must presume an even greater showing of necessity than that required for a practice that is intended to be neutral. The Department essentially concedes a compelling educational necessity for a scholarship program intentionally but not facially targeted to minorities. Nonetheless, the Department maintains that the standard for allowing a minority scholarship has somehow not been met.

This explanation is at odds with the general position of this administration that civil rights laws apply equally to protect non-minorities against "reverse discrimination." It is possible, therefore, that the term "minority" has no special meaning in the proposed policy, and that it can be replaced with the term "race." If this is so, it raises the specter that the Department intends to condone any practice which has a disparate racial impact. This approach has no foundation in law, and invites violations of Title VI. Just as poll taxes appeared neutral but had pernicious effects, so too can many practices by educational institutions be placed in the same category. Title VI regulations make it clear that both discriminatory intent, and discriminatory effect, together or separately, are violations of the statute:

"A recipient \* \* \* may not \* \* \* on ground of race, color, or national origin \* \* \* [d]eny an individual any service, financial aid, or other benefit \* \* \*"—34 C.F.R. 100.3(b)(1)

"A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided \* \* \* may not \* \* \* utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin \* \* \* [emphasis added]—34 C.F.R. 100.3(b)(2)

The Supreme Court first addressed an "effects" or disparate impact test in *Guardians Ass'n v. Civil Services Comm'n.*, 463 U.S. 582 (1983), in which a majority held that Title VI regulations properly prohibit practices which have the effect of discriminating on the basis of race or national origin. This holding was unanimously reaffirmed later in *Alexander v. Choate*, 469 U.S. 287, 293-94 (1985).

Therefore, the Department's distinction between the "race-based" scholarships that it would ban under this policy, and scholarships that appear "race-neutral" but aren't, is a distinction without a difference in the context of Title VI.

Perhaps the most alarming aspect of the proposed policy is the Secretary of Education's accompanying press release which emphasizes that "[a] college president with \*\*\* a minimum amount of good legal advice can provide minority students with financial aid \*\*\*" While we would agree that this is true if the scholarships have a compensatory purpose, in the context of the proposed policy (which rejects voluntary, race-conscious affirmative acts) this suggests that colleges can intentionally design programs that have a discriminatory effect regardless of the purpose.

Given that the distinctions drawn in the proposed policy lack validity, the Department should acknowledge the diversity and remedial justifications for minority scholarships set forth in part II of this comment. Indeed, OCR has long encouraged colleges to engage in modest, race-conscious measures to improve minority recruitment and retention. For example, a pamphlet published by OCR (*Minority Recruitment, Admissions & Retention in Postsecondary Education*, December 1988) includes the following examples of intentionally race-conscious or race-exclusive "voluntary action \*\*\* permitted under the Title VI regulation" to promote minority student recruitment and retention:

Conduct "financial aid nights" at high schools with substantial minority enrollments \*\*\*

Develop cooperative programs with local companies to provide summer and part-time jobs for low-income minority students to assist in meeting their tuition costs.

Institute a minority student orientation to distribute special information packets to all first-time entering minority students informing them of available services and upcoming sociocultural events.

Implement an "early warning system" to track the progress of minority students and provide appropriate assistance when academic difficulties arise.

Develop a program designed to assist minority students in specific fields of study (e.g. engineering).

The list goes on and on. If Title VI outlaws all minority scholarships, as the Department argues, then Title VI would also outlaw these other services and activities designed specifically for minority students. (Title VI regulations apply equally to "any service, financial aid, or other benefit"). The more logical conclusion, of course, is that minority scholarships, as well as these other "race-exclusive" activities, are legal if they serve a compensatory purpose or to promote diversity as part of an overall program.

*B. The policy guidance is clearly at odds with the Civil Rights Restoration Act*

Principle Five is the most difficult to square with the statutory scheme of Title VI. It would allow a college "to administer private donor race-exclusive scholarships \*\*\* where that aid does not limit the amount, type or terms of financial aid avail-

able to any students." In an apparent effort to protect the numerous individual scholarship funds established by families, community groups, and ethnic organizations which are restricted to students of a particular national origin, the Department distorts the overall structure of civil rights enforcement. Distinguishing between the college's institutional funds and private donor funds is simply impermissible under the Civil Rights Restoration Act. See 42 U.S.C. § 2000d-4a (for purposes of Title VI, "the term 'program or activity' means all of the operations of \*\*\* a college, university, or other post-secondary institution, or a public system of higher education \*\*\* any part of which is extended Federal financial assistance"). Accordingly, the legality of a minority-targeted scholarship program under Title VI cannot be made dependent on whether the funding source is institutional or privately designated. If the Department is willing to permit a college to administer privately-funded, minority-targeted scholarships, it must also permit such an institution to administer such scholarships if they were funded through institutional funds. To find otherwise would be to open a loophole in Title VI that would allow wholesale violations of the statute.

Finally, we note that the Secretary does not have the authority to create a four-year transition period to eliminate violations of Title VI. Transition periods for groups of recipients to come into compliance with the law only have been allowed when specified by Congress. See e.g., Title IX of the Education Amendments of 1972 §901(a)(2). Congress has made no such specification with respect to violations of the Civil Rights Act.

#### IV. CONCLUSION

We urge the Department not to adopt the Proposed Policy Guidance. We are particularly disheartened to find the Department devoting scarce resources to this issue. Minority student achievement and representation in higher education is getting worse, not better. These students need more help, not more obstacles. OCR has not investigated financial aid programs that discriminate against racial or ethnic minorities, women, individuals with disabilities, or the elderly, all groups that Congress has found to be in specific need of protection. Instead, in its first major statement on the subject of financial aid discrimination in years, OCR has for some reason seen fit to reach out to a category of scholarships that represent a tiny fraction of the financial aid pool, to make certain that non-minorities are not technically discriminated against by these scholarships.

At the very least, the Department's priorities in this matter are misplaced. At worst, OCR has turned its own mission on its head, and targeted for close scrutiny only those scholarships that benefit those who Title VI was specifically written to protect. The Department should instead be using its resources to combat the discriminatory practices which continue to keep minorities from reaching their full educational potential.

OCR's current regulations favoring minority scholarships should not be changed. The Department's historic policy allows colleges and universities to achieve the compelling goals of alleviating minority underrepresentation and promoting student diversity. These scholarship programs do not violate Title VI, nor is there any evidence that they adversely impact the ability of non-minorities to obtain financial aid. As sound public policy with no adverse effect, OCR's longstanding position on this issue should, if anything, be strengthened, not repudiated.

U.S. COMMISSION ON CIVIL RIGHTS,

Washington, DC, March 9, 1992.

Re: Comments on the notice of proposed policy guidance; nondiscrimination in federally assisted programs; title VI of the Civil Rights Act of 1964.

Mr. MICHAEL L. WILLIAMS,

Assistant Secretary, Office for Civil Rights, U.S. Department of Education, Washington, DC.

DEAR MR. WILLIAMS: The United States Commission on Civil Rights (Commission) submits the following comments in response to the Department of Education's (Department's) request for comments on its proposed policy guidance on nondiscrimination in federally assisted programs under Title VI of the Civil Rights Act of 1964. The proposed policy guidance would not allow minority-targeted (or, under the Department's terminology, race-exclusive) scholarships unless the aid is privately funded, is the result of prior discrimination, or is subject to explicit statutory exceptions.

Appended is a copy of the Commission's letter to President Bush, dated January 23, 1991, in which we stated that "it is essential to important social, economic and educational interests of the nation that colleges and universities be allowed to continue to utilize [minority-targeted] scholarships as part of their affirmative effort to recruit and remain minority students."

At a time when an educated citizenry is becoming increasingly essential for the United States' world-wide economic competitiveness and when a college education is becoming increasingly necessary to obtain jobs that provide a decent standard of living, Black, Hispanic and some Asian American high school graduates are still less likely to attend college at all, and those who do enroll in college have much lower graduation rates than their white counterparts. Although minority youth have made much progress in closing the education gap with white youth over the past thirty years, the progress towards closing the gap seems to have ground to a halt and even reversed in recent years. For example, although some minority high school graduates attended college at the same rate as white graduates in the 1970s, their college attendance rates fell in the 1980s, as that of white graduates was rising. American Council on Education, *Tenth Annual Status Report on Minorities in Higher Education* (1992). We are only beginning to see African American attendance rates rise again. For many minorities, limited financial resources as well as increased racial and ethnic tensions on campus are critical factors impeding their ability to attend college and achieve a college degree.

With minorities still suffering the effects of extensive discrimination, cultural bias, and economic disadvantage, the Federal Government must remain resolute in its commitment to overcoming the effects of conditions which resulted in limiting participation by minorities in education. The Nation requires a firm public policy that is truly committed to ensuring that minorities receive benefits that have been denied them over the years. Any public action that interferes with this fundamental public policy defeats the purpose of the civil rights laws of the land and ignores the very reason for their existence.

This Nation, time and again, has demonstrated its sensitivity to ensuring that all Americans, particularly members of minorities that bear or have borne the brunt of discrimination, possess the opportunity to reach the highest levels of achievement that the Nation can offer. If the proposed policy

guidance is adopted, the Commission believes that it will impose new and unnecessary restrictions on scholarships and, consequently, impede the progress of minorities.

The Commission objects, therefore, to the broad elimination of minority-targeted scholarships that the Department's policy guidance proposes. This policy stance is inconsistent with prior interpretations of the Department and runs counter to well-established formulations for affirmative action. Moreover, the many administrations since the Civil Rights Act of 1964 have aggressively moved to remedy the effects of discrimination and have reaffirmed their commitment to broad affirmative action measures, such as minority-targeted scholarships. Consequently, we find that there is no basis for the Department changing public policy on minority-targeted scholarships and undermining a long-standing approach under which either prior discrimination or the goal of diversity permitted reasonable use of minority-targeted scholarships. We respectfully request that the Department reconsider its decision to limit minority-targeted scholarships as outlined in the proposed policy guidance.

The Commission does not suggest that the minority-targeted scholarships are permissible under any circumstances. It is appropriate to review both the goals being pursued by such a plan and the specific means for accomplishing those goals. Accordingly, the plan's duration and the burden on nonminority students are appropriate considerations. However, the Commission does recognize that, under today's conditions, reasonably structured minority-targeted scholarships are an appropriate and direct means of ensuring a diverse student body, permitting minorities to expand their economic opportunities, and, as importantly, allowing the American economic structure to continue to grow.

We also do not suggest that scholarships based on economic disadvantage should be ended. Much of Federal student aid programs and some State programs already use economic disadvantage as a criterion. This emphasis should continue.

The Department has narrowly construed its own regulations on voluntary affirmative action. Specifically, 34 CFR 100.3(b)(6)(ii) states:

"Even in the absence of . . . prior discrimination by a [college or university receiving Federal financial assistance], a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin."

The Department limits the scope of affirmative action under this provision to "race as a plus" (or what it narrowly terms diversity programs), that is, the consideration of race as one of many factors in determining scholarship eligibility. For inexplicable reasons, the provision is not interpreted as permitting the targeting of minority students for even a minuscule percentage of overall financial aid. The regulatory language is not so limiting and has not been interpreted that restrictively in the past. Voluntary affirmative action should permit minority-targeted scholarships. The Commission believes that the Department's policy is narrowly restricting the educational institutions' latitude in awarding such scholarships to achieve diversity. The use of minority-targeted scholarships is appropriate whenever a college or university reasonably determines that race-neutral alternatives or using race as a plus factor has not worked or will not work.

The Commission finds it inconsistent for the Department to take the position that affirmative action is permissible where there is no prior discrimination, but deny the application of this concept for scholarships to minorities whose economic status and restricted educational opportunities have limited the ability of such students to attend colleges and universities. Minority-targeted scholarships are appropriate. Clearly, the law permits educational institutions to make reasonable use of minority-targeted scholarships in either circumstance, and the Department's policy guidelines should reflect this.

The Commission is particularly concerned that per capita government financial resources traditionally accessible to minority students may not be as available today. As a result, the practical effect of such policy would significantly interfere with the ability of minorities to attend college. Without the government aid, educational institutions have to rely upon institutional funds to grant the same level of assistance to individuals. At a time when we are trying to encourage minorities to increase their attendance rates, this policy would limit the college's ability to meet this problem directly. Race-neutral or race as a plus programs only deal with the problem indirectly and, therefore, less effectively.

The Department's narrow interpretation of Title VI runs counter to the many instances of Federal public policy to provide direct assistance to minorities. It is ironic that Congress took action to increase aid to minority and female students in late 1990 when it enacted the Excellence in Mathematics, Science and Engineering Act. Noting that minorities and women are significantly underrepresented in the fields of mathematics, science and engineering, the act targeted programs for minorities and women in these fields. This act is only one of many demonstrated instances of Federal public policy to increase aid to minorities. Nevertheless, the Department's proposed policy guidance strays from this path by narrowing the availability of directed aid.

When diversity is discussed as a policy issue, it must be recognized that diversity includes a broad number of concerns. Colleges and universities already offer a large variety of targeted scholarships based on ethnicity, geography, and other concerns related to diversity. Representation on campus is the most obvious form of diversity. Different cultural and social perspectives are essential for growth in an intellectual climate. Diversity, however, reflects a broader landscape than merely the representation of different groups. For example, the presence of different perspectives and attitudes produced from the distinctive social, economic, and cultural values of members of the community are an important part of the learning process. An academic institution by definition must not be a haven for a single viewpoint. As important as other concerns on diversity is the impact of diversity for the future, not only of the students, but the country as a whole. We must educate all our people for the challenges of today and tomorrow. Diversity in an educational institution, therefore, has a profound effect upon the entire Nation. Specific minority-targeted scholarships assist in ensuring that this diversity, both on campus and in future roles, exists. Colleges and universities, therefore, must be given the opportunity to recruit the individuals necessary to develop this broad definition of diversity.

*Perceptions.* The Department's policy may be seen as a distressing signal to students, to

minority groups, and to disadvantaged individuals that the Federal Government will not work earnestly to meet their reasonable needs. The voices of some suggest that many individuals see policymakers as disinterested in ensuring equality as a fundamental policy interest of the Nation. This dismal perception has dramatic impact upon members of minorities who still see the United States as providing an opportunity for individual advancement. Still engaged in the process of eliminating the vestiges of discrimination across the Nation, it is vital that the Federal Government lead the way in continuing the fight against discrimination and against economic disparity based on minority status. We believe that the Department must demonstrate its commitment and support for educational opportunities for the disadvantaged.

*Privately Funded Minority-targeted Scholarships.* We concur in the view that private funds administered by an educational institution may be minority-targeted. But we find the qualifying language puzzling and in need of clarification. Such aid is permitted if it "does not limit the amount, type or terms of financial aid available to any student." The language does not indicate what constitutes an impermissible limiting of aid. The educational institution cannot reliably administer such private funds without a reasonable understanding of what would constitute an impermissible limiting of funds.

*Past Discrimination.* While the Commission accepts the Department's conclusion that minority-targeted scholarships are permissible when necessary to overcome past discrimination, we take exception to the requirement that the determination of past discrimination must be made by a court or administrative agency or, so long as there is a strong basis in evidence identifying discrimination within its jurisdiction, by a State or local legislative body.

An authoritative body of a college or university knows best its own history and should have the authority to make such a determination under restricted conditions. More than any other group, a college or university will have the knowledge of the needs of its educational community, as well as the specific methods of allowing aid to remedy problems. The ability of a college or university to make such a determination is not the same as a decision on the existence of societal discrimination, which *Bakke* warns against. It does mean that the institution, in support of its efforts to seek affirmative action, has the authority to make determinations of the appropriateness of certain aid.

*Proposed Actions of the Department in Supporting Minority-Targeted Aid.* The effect of the proposed policy guidance will be to significantly limit the availability of minority-targeted aid by educational institutions. What action does the Department propose to ensure that adequate aid is received? Will the Department actively petition that the law be amended to overcome the limitations that it sees? Since the Department is the government agency committed to ensuring that Federal policy implements standards to assist minorities in achieving equality, we would share the disappointment of many if the Department did not energetically act to eliminate any impediment to minority-targeted scholarships. Faith in the ability of the Department to enforce the fundamental commitment to equality will be shattered by the Department's inaction. Indeed, many will understand the actions of the Department to be part of a policy to narrow the aid available to minority students. The Commis-

sion is concerned that the language of the policy guidance suggests that such action will not be taken by the Department. In referring to Congress' ability to establish exceptions to Title VI, no mention is made of any action on the part of the Department—only that specific legislation will be considered. We believe that, if the policy guidance remains, the Department should clearly state its position on the desirability of such aid and its commitment to working towards ensuring the availability of such aid.

In summary, the Commission believes that the proposed limitations on minority-targeted scholarships are not required by Title VI, and furthermore, that the draft policy sends a message, intentional or not, that the Federal Government is retreating from the vigorous and aggressive pursuit of equal educational opportunity for minorities. The Commission urges the Department to reconsider the policy in this light.

Sincerely,

ARTHUR A. FLETCHER,  
Chairman.

U.S. COMMISSION ON CIVIL RIGHTS,  
Washington, DC, January 23, 1991.

The PRESIDENT,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our grave concern about the minority scholarship policy announced last month by the Education Department's Office for Civil Rights (OCR). This policy contradicts not only the priority you have established for education during your administration, but important, long-term national interests as well.

The Commission disagrees with OCR's sudden announcement that Title VI of the Civil Rights Act of 1964 prohibits the funding of minority-targeted scholarships by institutions receiving federal financial assistance. In our judgment, the law permits educational institutions to make reasonable use of minority-targeted scholarships when necessary to overcome the effects of discrimination or to achieve the legitimate and important goal of a culturally diverse student body.

Furthermore, the Commission is persuaded that it is essential to important social, economic and educational interests of this nation that colleges and universities be allowed to continue to utilize such scholarships as part of their affirmative efforts to recruit and retain minority students.

Finally, we believe that administration policy in this area of vital national concern is too critical to America's future to be relegated to subcabinet level pronouncements that leave an entire educational community confused.

Although OCR's new policy would permit institutions to administer privately funded minority-targeted scholarships, it would prohibit the use of an institution's general funds for the same purpose. This distinction is not only legally insupportable, but also provides little relief from the overall impact of the new policy. Because general funds provide most of the existing minority scholarships, this restriction, if allowed to stand, could have a devastating effect on the efforts of our colleges and universities to increase diversity and to remedy the effects of discrimination.

Minority students today continue to face serious barriers to equal educational opportunity on college campuses. Too often, minority students attending predominantly white institutions of higher learning encour-

ter either indifference to their needs or outright racial hostility. On many campuses, they experience both. Institutions struggling to overcome the effects of racism on their efforts to recruit and retain minority students need the flexibility to design effective affirmative outreach programs. These institutions use minority-targeted scholarships as a means of letting minority students know that their presence and full participation in campus life is not merely accepted but sought after as a matter of important national and institutional interest. Many institutions have identified these scholarships as an essential tool, without which the effectiveness of their outreach efforts will be seriously impaired.

The role of institutions of higher education in achieving important national goals is well recognized. In a society such as ours—with a diverse and multi-cultural citizenry—these institutions can and must contribute to the achievement and maintenance of social strength and harmony. The education of a diverse student body, convened on common ground for common purposes, is their primary vehicle for making this contribution. To thwart their efforts by prohibiting even the very limited use of a tool so many have found essential can only help to perpetuate the racial and ethnic divisions within our society.

As we approach the year 2000, our economy requires a leadership role by colleges and universities to meet the demand for increasingly high education levels in the workforce. With a growing percentage of new minority entrants into the working population, the nation's economic vitality in the 21st century will depend on how well we educate minority youth. Facing these challenges, we can scarcely afford to abandon any tool that encourages minority students to pursue a college education, or that enables a college to educate its students in a culturally diverse environment.

OCR's reversal of prior policy has already brought confusion. Colleges and universities are reexamining their scholarship policies, and most can be expected to reconsider their minority scholarship programs against the likelihood of litigation fostered by the OCR announcement. Obviously, in this environment, many institutions may now feel compelled to drop their minority scholarship programs as the "safest" position. Meanwhile students and future students face the uncertainty this unfortunate situation has caused as to whether they will be financially able to continue their education. It is imperative that this damage be undone.

Mr. President, you have made strengthening this country's education system one of your top policy goals. Addressing the overwhelming educational needs of minority youth is essential to that task. We urge you, therefore, to take a strong stand in support of affirmative action in the recruitment of minority students, including the use of minority-targeted scholarships where necessary to achieve either of two important national interests—remedying the invidious effects of discrimination and attaining the benefits of a diverse student body.

We recommend further that you direct the Secretary of Education to promulgate, after consultation with the higher education community, clearly defined guidelines that implement that strong national policy of affirmative action. Finally, we urge that you take these steps forthwith, so as to avoid even greater uncertainty than OCR's actions have caused to date.

Respectfully,

ARTHUR A. FLETCHER,  
Chairman.●

#### TRIBUTE TO LOUIS ANTHONY CONDO

● Mr. SIMON. Mr. President, next week will mark the year anniversary of the death of Louis Anthony Condo, a great leader in the American labor movement. Louis would be very proud to know that his son Joe Condo has since risen to become a vice president in the Transportation-Communications Union, the same union that Louis served so long and so well. Illinois is proud of Joe's contributions to our State.

At this time, I ask that a tribute to Louis Anthony Condo be printed in the RECORD:

The tribute follows:

#### A TRIBUTE TO LOUIS ANTHONY CONDO

Mr. President, on Friday, March 20, 1992 will be a year since Louis Anthony Condo, a great Italian-American labor leader and a proud New Yorker died at the Overlook Restaurant in Valhalla, New York. As he lived Louis died in characteristic style, just as he had completed a plate of linguini and clams with his favorite table wine.

Now that Louis is in another Valhalla looking down upon all of us, he can clarify which of the three I.D.'s he carried was the accurate one. But those for whom Lou worked, worked with or worked for didn't care whether he was 67, 57, or 37. They all loved and respected him and knew his age was the only thing upon which he fudged.

Whether as an official of his local union, credit union, the Allied Service Division of the Brotherhood of Railway, Airlines & Steamship Clerks (now Transportation-Communications Union) or in the position many of us came to know him best as that union's New York State Legislative Director he exercised and merited influence far beyond the positions themselves. He had the flair, the confidence, the dignity and the commitment that convinced you he was telling it as it was. Unlike the greens that garnished his frequent bowl of pasta, he did not embellish his position with oratory, but he sure gave you the cold hard facts.

Those who toiled in either Albany or Washington or both may have known him best as his union's State Legislative Director but railroad workers knew him as the man who could understand their fears, complaints and suggestions and respond with more than words. He treated all with respect and he was most obviously respected by one and all. Lou Condo was well known in corporate board rooms, government offices, railroad freight yards, loading platforms and railroad general offices throughout the state of New York, especially in New York City.

Workers named their kids after him, politicians told "Lou Condo" stories to demonstrate a point, dogs wagged their tails at him, children smiled at him and one immigrant street vendor upon becoming a citizen officially changed his name to Lou Condo in the hopes some of the charm would rub off on him.

New York congressman, Tom Manton, recently said, "The five boroughs were just a little more pleasant to live in when he was with us and he is already sadly missed by all of us."

On Friday night, March 20th in a little Italian restaurant in Greenwich Village, a group of friends and relatives will sit down in front of linguini and clams and tell "Lou Condo" stories. They may have lost a friend,

but they've been blessed to keep the memories.●

#### CONSULTATION ON THE ENVIRONMENT AND JEWISH LIFE

● Mr. GORE. Mr. President, earlier this week, my colleague JOSEPH LIEBERMAN and I hosted a significant gathering of Jewish leaders, from every denomination, from diverse organizations and differing political perspectives, for an unprecedented "Consultation on the Environment and Jewish Life." For 2 days, this extraordinary group immersed itself in an intensive learning process about the ecological crises that threaten the Earth: Depletion of the ozone layer, global warming, massive deforestation, the loss of biodiversity, toxic chemical and nuclear wastes, exponential population growth. The purpose of this exercise was to explore, from the perspective of the Jewish faith, the spiritual dimensions of the environmental crises confronting our planet and to begin to formulate an appropriate Jewish response.

Mr. President, I am pleased to present, for inclusion in the RECORD, the statement issued at the end of the 2-day consultation—"On the Urgency of a Jewish Response to the Environmental Crisis." I commend the statement to the attention of my colleagues. It is a reaffirmation of the Jewish tradition of stewardship that goes back to Genesis, and an action plan for a Jewish community response to the environmental crisis.

Significantly, the statement recognizes, as I believe we all must eventually, that the crisis that threatens the global environment demands action that is rooted in the core values of a deeply religious outlook. In my own religious experience and training—I am a Baptist—the duty to care for the Earth is similarly rooted in the fundamental relationship between God, creation, and humankind. In the Book of Genesis, Judaism first taught that after God created the Earth, He "saw that it was good." In the 24th Psalm, we learn that "the Earth is the Lord's and the fullness thereof." In other words, God is pleased with His creation, and whatever is done to the Earth must be done with an awareness that it belongs to God.

My tradition also teaches that the purpose of life is "to glorify God." And there is a shared conviction within the Judeo-Christian tradition that believers are expected to "do justice, love mercy, and walk humbly with your God." But whatever verses are selected in an effort to lend precision to the Judeo-Christian definition of life's purpose, that purpose is clearly inconsistent with the reckless destruction of that which belongs to God and which God has seen as good. How can one glorify the Creator while heaping contempt on the creation? How can one

walk humbly with nature's God while wreaking havoc on nature? The answer, Mr. President, is simply that one cannot.

Mr. President, the outlook I have expressed in this statement, I have illustrated in the context of the Judeo-Christian tradition. But I by no means deny the similar relevance of the other great religions of the world. It seems to me that all are rooted in the same essential elements of sound stewardship—of care and concern for all God's creations, of harmony and balance in our relationship with the Earth. The challenge that confronts each and every one of us now, in the face of such unprecedented threats as global warming, is to return to such basic convictions.

The statement follows:

#### THE URGENCY OF A JEWISH RESPONSE TO THE ENVIRONMENTAL CRISIS

We, American Jews of every denomination, from diverse organizations and differing political perspectives, are united in deep concern that the quality of human life and the earth we inhabit are in danger, afflicted by rapidly increasing ecological threats. Among the most pressing of these threats are: depletion of the ozone layer, global warming, massive deforestation, the extinction of species and loss of biodiversity, poisonous deposits of toxic chemical and nuclear wastes, and exponential population growth. We here affirm our responsibility to address this planetary crisis in our personal and communal lives.

For Jews, the environmental crisis is a religious challenge. As heirs to a tradition of stewardship that goes back to Genesis and that teaches us to be partners in the ongoing work of Creation, we cannot accept the escalating destruction of our environment and its effect on human health and livelihood. Where we are despoiling our air, land, and water, it is our sacred duty as Jews to acknowledge our God given responsibility and take action to alleviate environmental degradation and the pain and suffering that it causes. We must reaffirm and bequeath the tradition we have inherited which calls upon us to safeguard humanity's home.

We have convened this unprecedented consultation in Washington, DC, to inaugurate a unified Jewish response to the environmental crisis. We pledge to carry to our homes, communities, congregations, organizations, and workplaces the urgent message that air, land, water and living creatures are endangered. We will draw our people's attention to the timeless texts that speak to us of God's gifts and expectations. This consultation represents a major step towards:

Mobilizing our community towards energy efficiency, the reduction and recycling of wastes, and other practices which promote environmental sustainability;

Initiating environmental education programs in settings where Jews gather to learn, particularly among young people;

Pressing for appropriate environmental legislation at every level of government and in international forums;

Convening business and labor leaders to explore specific opportunities for exercising environmental leadership;

Working closely in these endeavors with scientists, educators, representatives of environmental groups, Israelis, and leaders from other religious communities.

Our agenda is already overflowing. Israel's safety, the resettlement of Soviet Jewry,

antisemitism, the welfare of our people in many nations, the continuing problems of poverty, unemployment, hunger health care and education, as well as assimilation and intermarriage—all these and more have engaged us and must engage us still.

But the ecological crisis hovers over all Jewish concerns, for the threat is global, advancing, and ultimately jeopardizes ecological balance and the quality of life. It is imperative, then that environmental issues also become an immediate, ongoing and pressing concern for our community.

Rabbi Marc D. Angel, President, Rabbinical Council of America; Shoshana S. Cardin, Chairperson, Conference of Presidents of Major American Jewish Organizations; Rabbi Jerome K. Davidson, President, Synagogue Council of America; Dr. Alfred Gottschalk, President, Hebrew Union College-Jewish Institute of Religion; Dr. Arthur Green, President, The Reconstructionist Rabbinical College; Rabbi Irwin Groner, President, The Rabbinical Assembly; Walter Jacob, President, Central Conference of American Rabbis; The Honorable Frank R. Lautenberg, United States Senate.

Marvin Lender, President, United Jewish Appeal; The Honorable Joseph I. Lieberman, United States Senate; Sheldon Rudoff, President, Union of Orthodox Jewish Congregations of America; Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations; Dr. Ismar Schorsch, Chancellor, The Jewish Theological Seminary of America; Arden Shenker, Chairman, National Jewish Community Relations Advisory Council; The Honorable Arlen Specter, United States Senate; Alan J. Tichner, President, United Synagogue of America.●

#### THE DOWNED ANIMAL PROTECTION ACT OF 1992

● Mr. AKAKA. Mr. President, I rise today to call the attention of my colleagues to S. 2296, the Downed Animal Protection Act of 1992, a bill I recently introduced to eliminate inhumane and improper treatment of downed animals at stockyards. This legislation will prohibit the sale or transfer of downed animals unless they have been humanely euthanized.

Downed animals are severely distressed recumbent animals that are so sick they cannot rise or move on their own. They are also referred to as non-ambulatory animals. Once an animal becomes immobile and fails to stand, it is left to lie where it falls, often without receiving basic needs. Downed animals that survive the stockyard are finally slaughtered for human consumption. According to Farm Sanctuary, a nonprofit organization located in Watkins Glen, NY, in some States approximately 85 percent of downed animals end up in the human food chain.

These animals are extremely difficult, if not impossible, to handle humanely. They have very specific needs, they must be fed and watered individually, they require bedding and a separate pen, and they need veterinary at-

tention. The suffering of downed animals is so severe that the only humane solution is immediate euthanasia.

Mr. President, the bill I have introduced provides for humane euthanasia of these hopelessly sick or injured animals by mechanical, chemical, or other means that rapidly and effectively renders animals insensitive to pain. Humane euthanasia of downed animals will limit animal suffering and will require the livestock industry to concentrate on improved management and handling practices to avoid this problem.

Downed animals comprise a tiny fraction, roughly one-tenth of 1 percent, of animals at stockyards. Banning their sale or transfer would cause no economic hardship. The Downed Animal Protection Act will prompt stockyards to refuse to accept crippled and distressed animals and will make the prevention of downed animals a priority for the livestock industry. In this way the bill will be instrumental in reinforcing the livestock industry's commitment to humane handling of animals.

The downed animal problem has been addressed by major livestock organizations such as the United Stockyards Corp., the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas. All these organizations have taken strong stands against improper treatment of animals by adopting "no-downer" policies. I want to commend these and other organizations, as well as every responsible and conscientious livestock producer in this country, for their efforts to end an appalling practice that erodes consumer confidence.

In addition to the concern expressed about this problem by the livestock industry, Secretary of Agriculture Edward Madigan expressed his concern about the treatment of downed animals and promised that his agency would increase efforts to protect animal rights at livestock markets nationwide. On May 21, 1991, he was quoted as being "disgusted and repelled" at the way downed animals had been treated, and added that the Agriculture Department was going to be more aggressive and effective in dealing with animal welfare. In response, USDA's Packers and Stockyards Administration issued a recommendation for stockyards to take steps to assure that proper care and handling are provided to animals. Saner, more humane ways of handling downed animals were also the subject of a recent hearing by the House Subcommittee on Livestock, Dairy and Poultry.

Despite these actions and an unprecedented consensus among the industry, animal welfare movement, consumers and government that downed animals should not be sent to stockyards, this

sad problem continues to exist, causing animal suffering and an erosion of confidence in the industry.

Mr. President, the legislation that I invite all my colleagues to support will complement the industry's efforts to address this problem by encouraging better care of animals at farms and ranches in the first place. Additionally, animals with impaired mobility will be treated better in order to avoid the possibility of them going down. The bill will remove the incentive for sending downed animals to stockyards in the hope of receiving some salvage value for such animals and would encourage greater care during loading and transport. By allowing 1 year for the legislation to come into effect, the bill will also end improper breeding practices which account for a significant percentage of downed animals. This will also be conducive to a gradual, phased-in introduction of more humane treatment policies.

My legislation would set a uniform standard throughout the States thereby removing any unfair advantages that might result from instituting differing State guidelines.

Another advantage of my legislation is that fewer Federal dollars would be required to monitor no downer policies than would be required if guidelines were instituted for moving downed animals through the livestock market process. Inspectors of the Packers and Stockyards Administration regularly visit stockyards to enforce existing regulations, so the additional regulatory burden on the agency and the stockyard operator will be insignificant.

Thank you, Mr. President. I urge all of my colleagues to join in supporting this legislation.

Mr. President, I ask unanimous consent that a number of articles relating to this problem be printed in the RECORD following my remarks.

The articles follow:

[From the Fort Wayne (IN), News-Sentinel, May 21, 1991]

#### STOCKYARD CONDITIONS CRITICIZED

DANVILLE.—Agriculture Secretary Edward Madigan said he was shocked by what he saw recently on videotape of treatment of sick and injured cattle at a St. Paul, Minn., livestock market.

"I was disgusted and repelled. The stockyard thing at St. Paul was a disgrace," he said. "We are going to be more aggressive and effective in dealing with animal rights."

Madigan promised yesterday that his agency will increase efforts to protect animal rights at livestock markets nationwide.

Madigan met with Indiana farm leaders at the livestock and grain farm of the John D. Hardin Jr. family near Danville.

The National Pork Producers Association also is concerned about animals' treatment at stockyards, Hardin said.

He is president of the association and raises about 6,000 head of hogs and 1,400 acres of grain yearly.

"The vast majority of farmers care for their animals properly," Hardin said. He said

his association will work with those who need education about humane treatment.

The association's position says that if sick or injured animals are unable to be treated, they should be put to death humanely on the farm and not sent to market.

This position will be made known in mailings late this week to all livestock markets in the country, Hardin said.

The markets will be asked to refuse acceptance of downed animals, he said.

The controversy at South St. Paul began in April after videotape taken by Farm Sanctuary of Watkins Glen, N.Y., depicted downed cattle being unable to reach water and food for several days at the market and being dragged by chains.

After the publicity, United Stock Yards said it no longer would accept downed cattle, hogs and sheep.

[From the Eau Claire (WI) Country Today, Feb. 27, 1991]

#### THIS CONCERN IS LEGITIMATE

(By Tom Lawin)

If there is one term that gets the attention of most farmers it is "animal rights."

By and large, adherents of this philosophy (usually non-farmers) have as their goals (1) the elevation of animals to human status by claiming animals have certain "rights." In fact, they use the terms "animal rights" and "animal welfare" interchangeably. And (2) elimination of animal-based agriculture, in effect forcing everyone to join the wonderful world of eggplant and zucchini.

While virtually all farmers, particularly in tough economic times, readily endorse and practice animal welfare, they depart from those who insist on animal rights.

The goals of animal rightism were reaffirmed in Eau Claire last Saturday afternoon during a snowstorm that dumped eight inches on northwestern Wisconsin.

Gene Bauston, a Hollywood, Calif. native who now lives in upstate New York, and co-founded with his wife of Farm Sanctuary, a haven for mistreated animals he said he rescued from farm and livestock auction facilities, spoke to 18 persons, including the editor of this newspaper, about a rally he is attempting to organize for Memorial Day. The rally will take place at the South St. Paul (Minnesota) Stockyards as a protest over the sale of "downer" livestock at that huge auction market.

Mr. Bauston's appearance in Eau Claire was sponsored by a newly-formed group, the Cheppewa Valley Voice for Animals and comes on the heels of what Mr. Bauston said was a successful effort in gaining a pledge from a Lancaster County, Pa. stockyard to cease accepting downer livestock.

Literature handed out at the Saturday meeting here included copies of the "Sanctuary News" which carried news articles that may appear redundant to farmers, but which strike a nerve in town everytime they appear. A photo inside shows Ms. Bauston and a friend serving plates full of vegetarian food to five white turkeys standing around a table. It was an "adopt-a-turkey" promotion last Thanksgiving Day conducted by Mr. Bauston's Farm Sanctuary urging people not to eat turkeys.

The organization's pamphlet also urged readers to "go vegetarian! A vegetarian world by the year 2000? Why not? Anything is possible when there are dedicated people doing everything possible to bring a kinder 21st century. . . .

Then there were the "save a cow" and "veggie dinner parties" suggestions promoted by Mr. Bauston's Farm Sanctuary.

But the pamphlet also explained the reason for Farm Sanctuary's planned Memorial Day demonstrations and rally. And Mr. Bauston showed an 18-minute video taken last fall at South St. Paul, dwelling on the condition of downer livestock at that market. It wasn't pretty.

This will be the focus of Farm Sanctuary's rally in May and it just may be ground that farmers and animals rights advocates can share.

With the exception of a rare injury during trucking to a livestock auction house or slaughterhouse, most animals that cannot walk off a truck when it arrives at an auction point or slaughterhouse is an animal that was too ill to be shipped in the first place.

Few farmers and even fewer others would want to eat a slaughtered downer cow, lamb, steer or hog. Yet, there are downer animals sold at auction barns and to slaughter plants that escape the inspectors.

Seldom has the Country Today supported animal rights efforts, partly because the movement's adherents insist that animals, indeed, have rights. However, the attempt by Farm Sanctuary to encourage stockyards to refuse to accept downer livestock is sound and one that farmers should support.

It is indeed a bad image to agriculture to see video tape footage of downed animals being dragged from trucks by chains. If the fledgling Farm Sanctuary had sufficient funds to buy thousands of copies of its 18-minute video, "The Down Side of Livestock Marketing," for sure it would generate just the type of publicity and/or attitudes among the consuming public that agriculture does not need at this time. Surely, animal welfare is an issue that all farmers can support."

Here clearly is a justified case for either the State Department of Agriculture, Trade and Consumer Protection or the Legislature to address either with rules or laws that forbid the sale of downer livestock. As a matter of perception (and principle) the sale of downer animals to any place but a rendering company should be forbidden.

If Farm Sanctuary succeeds in attracting major publicity from its Memorial Day demonstration and rally at the South St. Paul stockyards, it is sure to gain some support from the consuming public.

Farmers have a great deal at stake in keeping ammunition from the guns of animal rights groups. Helping them resolve the downer livestock issue would be a good place to start.

[From the Hoard's Dairyman, July 1991]

#### THE INDUSTRY MUST STOP "DOWNER COW" ABUSE

The black eye the livestock industry got over the widespread "downer cow" publicity was self-inflicted. Frankly, we got what we deserved.

For those who missed the news, a company that owns stockyards in six cities said it no longer would accept downed animals. The announcement came after an animal care activist went public with a video from the South St. Paul yard including footage of downed animals.

Our big concern is that it took prime time TV exposure, national wire service reports and a threatened Memorial Day demonstration at the South St. Paul Stockyards to get the job done. Because of that unfortunate exposure, the image of livestock people has been tarnished, and consumers have yet another reason not to eat meat.

There's no excuse for shipping animals which cannot walk. We commend stockyards

that will not accept crippled animals. We strongly encourage others to adopt this common sense policy.

To prevent problems with downers, owners simply will have to call their veterinarian, trucker or cattle dealer sooner. For downers that can't be avoided, most areas with sizable cattle populations still have rendering services.

All of the ways we care for, transport and market cattle will be scrutinized more carefully. Of everything we do with animals, we should ask, "How would this look to other people?"

[From the Meat & Poultry magazine, August 1991]

#### PRO-ACTIVE ACTIVISM

The NBC "Expose" show, featuring the deplorable conditions found at the South St. Paul stockyards in Minnesota (the show aired nationally May 19) made the public sick and horrified. My mother was revolted at the idea of eating some of those animals. The animals shown on the Becky Sanstedt video were emaciated, weak or had horrible infections. They should have been marketed weeks before they got into such terrible shape. Nine out of ten downer cattle are either weak or emaciated. Broken legs form a very small percentage of downer cows. The producers failure to market an animal promptly is the main cause of downer cattle.

Observations indicate that about 75 percent of downer cattle are dairy cows and the rest are beef animals. The best response for the packing industry to the NBC show would be for cow slaughter plants to send emaciated downer cows straight to rendering. If the producer realizes he will get nothing for a cow he will bring her in while she is still fit. The good dairies I've visited never have an emaciated, weak cow on the place. It is likely that five percent of the dairies are causing 95 percent of the problem. They retire old cows when they are still in good condition.

The United Stockyard Corporation and the National Pork Producers Association are to be commended for taking a strong stand on not accepting downers. It is my opinion that any animal which is emaciated or has an advanced cancer eye or infection should be euthanized on the loading dock of the market or plant. Even though the meat may be safe to eat, the animal looks so disgusting that it makes the public vomit. Producers will then be forced to bring prolapses and other problem animals into a market or plant before they become infected or weak. One sale barn in Canada euthanizes all advanced cases of cancer eye. Now the producers bring them in when they have just a little spot on the eye. In Colorado, downer animals are refused at the major auctions. The policy is: If the animal cannot walk through the ring then it can not be sold. Some auction markets in Minnesota and in Missouri have similar policies.

The dregs of the livestock industry are using the old terminal markets in South St. Paul, Minn., St. Louis, Mo. and other areas as a garbage can. The pig shown on NBC Expose with the grotesque swollen leg would never be seen in a "Big Three" (ConAgra, IBP, Excel) plant.

It's unfortunate that broken, dirty places like the South St. Paul Stockyard are near the big population centers. South St. Paul was one of the most broken and dirty places I have ever visited. I was informed by officials of the United Stockyards Corporation that the condition of the yard was even worse before they took it over two years ago.

The old terminal market is the only part of the livestock industry that many people see. They do not know about the beautiful plants and farms that exist outside the urban area. In the eyes of the public, state of the art plants such as Excel's in Fort Morgan, Colo., IBP's in Lexington, Neb., and Hatfield's in Hatfield, Pa., do not exist. The top management of the large companies with the good facilities need to take a much higher profile. Many management people forget the PR man's principle—perception is reality. In the Expose show, Long Prairie Packing's refusal to be interviewed made them look terrible. Their plant has recently been remodeled, but in the eyes of the public it was put in the same basket with the stockyard. Refusing an interview implies guilt, according to Mr. and Mrs. John Q. Public.

On May 10, 1991, all the leaders of the different industry groups got together to discuss the downer issue. It was unfortunate they did not take a strong stand against downers and emaciated weak animals. The Tylenol poisonings and other disasters have shown that being pro-active is the best defense. It is very shortsighted for industry leaders to drag their feet to protect a few shabby operators. It is unfortunate that in some cases the worst operations are represented on high level committees in a few segments of the industry.

All segments of the industry need to craft guidelines that will keep emaciated, weak and infected animals out of the market pipeline. Obviously, producers need to be able to market pigs with hernias, cows with prolapses and animals that fail to gain. This should be allowed if an animal is marketed promptly before it becomes debilitated. To solve the spraddle-leg problem in pigs, packing plants should fine pork producers who have a high percentage of downers. Spraddle-leg is an inherited condition. Hitting the pocket-book nerve is the best way to motivate change. A fine for spraddle-leg would achieve the goal of eliminating leg and hind-quarter weakness problems in hogs.

Ninety percent of all downers are preventable. Since most downers can be prevented, the industry can eliminate downers by euthanizing them. An industry-wide no-downer policy could be phased in gradually to minimize financial hardship on producers. The NBC Expose show could have been defused if a tape describing a strong industry-wide no-downer policy had been sent prior to the broadcast. Let's get proactive before it is too late.

[From the Pork Report magazine, July-August 1991]

#### SEVEN MAJOR LIVESTOCK YARDS STOP ACCEPTING DISABLED HOGS

(Editor's Note: The National Pork Board contracts with NPPC to educate producers on their responsibilities regarding animal welfare, as well as to provide accurate information to consumers on various animal welfare/rights issues. The following is an example of how NPPC recently worked on the Pork Board's behalf to represent America's pork producers.)

United Stockyards Corporation, the company that operates the largest group of public livestock yards in the U.S., announced May 7 that it would no longer receive non-ambulatory or "downed," livestock.

United Stockyards President Gail Tritle said that the new policy was the result of discussions with NPPC, Minnesota pork producers and other Minnesota livestock groups. United Stockyards operates yards at St. Paul, MN; Sioux City, IA; Sioux Falls,

SD; Omaha, NE; St. Joseph, MO; Indianapolis, IN; and Milwaukee, WI.

NPPC had entered into discussions with United Stockyards following isolated reports of allegedly abusive treatment of downed livestock at the South St. Paul yards.

"Since the pork industry has had voluntary animal care guidelines for pork producers in place for over a year, we felt that we might be able to assist United Stockyards in finding a way to address a problem that obviously had the potential for damaging the entire livestock industry," said NPPC Vice President Karl Johnson, MN. "Gail Trittle and his associates were very receptive."

The pork industry is encouraging other livestock facilities to adopt a similar policy concerning hogs.

Producers also are reminded that hogs unable to walk or sick hogs that obviously will not recover should be humanely euthanized on the farm and not transported to market. Transport of hogs to market should be done in trucks with adequate ventilation and non-slip floors. (See the accompanying article for more tips on avoiding downed animals.)

"We feel a strong producer education program on all aspects of the care and treatment of livestock, whether on the farm or in transit to livestock markets, is our ongoing responsibility," said Norm Montague, a California pork producer who serves as the pork industry's Animal Welfare Committee Chairman. "We take our responsibilities in this regard very seriously indeed."

**PORK INDUSTRY'S POLICY ON HANDLING DISABLED HOGS**

1. Marketing facilities should stop accepting crippled swine unable to walk and make that policy known to all interested parties.

2. Swine that have become injured in transit should be handled in a humane manner and, depending on the animal's condition, be either euthanized or transported as quickly as possible for slaughter.

3. Stockyard employees should be instructed that any swine that become disabled or incapacitated in stockyard facilities be handled with humane care and, depending on the animal's condition, be either immediately euthanized in a humane manner or transported as quickly as possible to slaughter.

4. Hogs unable to walk or sick hogs that will obviously not recover should be humanely euthanized on the farm and not transported to market.

**TAKE STEPS TO AVOID DOWNED HOGS**

(By NPPC Producer Education Director Beth Lautner, D.V.M.)

(Editor's Note: The following information is derived in part from checkoff-funded research commissioned by the National Pork Board.)

Downers . . . physically impaired . . . incapacitated . . . cripples . . . disabled . . . immobile. All of these terms have been used to describe non-ambulatory animals. This article will use the term "downed" or "downer" to mean animals that fall to stand.

With the change in policy at many stockyards on acceptance of downed animals, prevention of these types of conditions is even more important. Some 75-90% instances of animals arriving at markets in a downed condition could be prevented.

Many have pre-existing conditions that contribute to the development of problems during transport to markets. Producers should not "push their problems" on trucks and hope to receive some salvage value for the animal or use the stockyards as a disposal system for this type of animal.

Every effort must be made to deliver animals to market in the best condition possible, not only for the sake of the individual animals, but to assure the consumers of a safe, wholesome food product.

There are many causes of downed animals. Producers need to review the type of downers seen on their farms with their herd veterinarian and discuss prevention programs. The downer condition may develop under a variety of housing and management systems and occur at any stage of production.

The four main areas of prevention management include nutrition, disease, environment and genetics.

**WATCH FOR "DOWNER SOW SYNDROME"**

The "downer sow syndrome" was more of a problem before the introduction of improved diet formulations for highly productive sows. However, problems are still seen in Parity 1 females that wean large litters.

Special attention needs to be paid to the parity 1 females while she is lactating, with the female on full feed throughout lactation. Some producers find they can get more total daily consumption if they feed three times daily in the farrowing room.

Nutrient density of the diet needs to be adjusted with consumption. If you have lower consumption in the summer, you should increase the protein, fat (if used), calcium, phosphorous and other nutrient levels.

Many producers are using daily feed consumption charts for lactating sows to emphasize feed consumption and as an aid when different people are responsible for feeding sows.

Use drippers in the farrowing rooms in the summer. Drippers have dramatically reduced the number of downer sows after summer weanings.

Some producers encourage more lactation feed consumption by using wet feeders or mixing water with the sow feed in conventional sow feeders.

Be sure to clean out the feeders regularly. Many times sow feeders have stale feed in the corners that decrease the sow's consumption. Watch storage times of mixed lactation feeds in the summer, especially if they are high fat diets.

Proper nutrition for all stages of production is important in the prevention of downed animals. Review your diets with your feed company and nutritional advisor at least once a year, or better yet, formulate diets on a seasonal basis based on feed consumption. It is especially critical to review calcium, phosphorus, Vitamin D, zinc and biotin levels.

Be sure to follow company recommendations and do not mix vitamin and mineral packs from different companies without first checking that you do not cause imbalances.

**TAKE STEPS TO AVOID JOINT INFECTIONS**

Another cause of downed animals is joint infections. There are many infectious agents that may cause lameness. If this is a significant problem for your operation, you need to work closely with your veterinarian and a diagnostic laboratory to determine the cause.

Strep infections are responsible for many of the joint infections in all ages of hogs. Prevention of strep starts back in the farrowing room. Make sure pigs intake colostrum to get immunity from the sow.

Clip the tips of all eight needle teeth, taking care not to damage the gum. This allows strep to enter the pig's system. Use different sidecutters to do teeth, tails and castrations, and disinfect sidecutters between pigs.

**ATTENTION TO FLOORING PAYS OFF**

Producers should also evaluate the effect of flooring on joint infections, and clean and

disinfect farrowing rooms. If erysipelas is a problem, use an appropriate vaccination program.

With the trend toward more environmentally controlled housing, more attention needs to be paid to the effect of flooring on lameness in pigs.

Many of these facilities were built 10-15 years ago, and aspects of these buildings, such as rough concrete, worn or uneven slats, etc. will predispose pigs to traumatic and stress-induced injuries. Many times foot injuries are followed by infections.

To prevent foot problems, provide clean, dry, non-abrasive floors. Control environments to achieve good dunging habits to avoid damp, wet floors. It would be ideal to resurface or replace rough concrete floors.

**TRANSPORTATION AND MOVEMENT CALL FOR SPECIAL HANDLING TIPS**

Set up your facilities to take into account the behavior characteristics of the pig when being moved or transported. Besides reducing the incidence of downed animals, this will aid in handling, increase productivity, improve meat quality and help reduce stress when it comes time to transport hogs to market or to move hogs on the farm.

For example, fences should be solid on loading ramps, crowd pens and other hog handling facilities in order to prevent the animals from seeing distractions outside the fence.

The crowd gate in a pen also should be solid, or otherwise the hogs will attempt to turn back and rejoin their herdmates.

A portable solid panel is efficient for moving hogs. You can place the solid barrier in front of the hogs to keep them from turning back.

When you do want a hog to back up, a broom can be used. Sows will readily back out of their crates when tickled on the snout with a broom.

Because hogs have a strong escape response, funnel-shaped crowd pens used for cattle are not recommended. When two hogs become wedged in a funnel heading to a loading chute, both animals will keep pushing forward. A hog crowd pen should have an abrupt entrance to the chute to prevent jamming.

Watch for hazards when moving pigs through alleyways and down loading ramps, and avoid overcrowding pigs. Minimize moving and mixing to reduce injuries that could lead to downed animals.

When trucking hogs, safety and comfort should be of primary concern. Use truckers with a reputation for good handling practices.

Trucks should be properly bedded (straw when temperature is below 60° and wet sand or shavings when over 60°) to provide a non-slip floor.

Partitions should be used to separate hogs to reduce fighting and piling up. Truckers should be encouraged to stop and start smoothly to avoid hogs being knocked off their feet.

**PURCHASE SOUND BREEDING STOCK**

Hog breed affects behavior during handling, and within a breed, different genetic lines will vary in excitability and fearfulness of strange places and people. Genetic selection also is important in prevention of feet and leg problems that predispose to downers.

To avoid potential problems, select sound breeding stock. Watch for the tendency of breeding stock to spraddle leg or do "splits," and avoid "stress-susceptible" breeding stock. Attention should be paid to selection of breeding animals with even toe sizes.

FOLLOW SET GUIDELINES ON HANDLING DOWNED HOGS

Prevention is the key to the issue of downed hogs, however, there will still be instances when an animal becomes physically impaired on the farm. Visit with your veterinarian about guidelines for making decisions on disposition of such animals.

Be sure not to neglect these animals and "hope for a miracle." It is in everybody's interest and most of all the pig's to make a decision quickly to shorten any period of suffering. While the industry's focus is herd production, this is an instance where animal welfare has to be addressed on an individual basis.

Keep the animal well bedded and provide access to feed and water. Hand water if necessary to ensure adequate intake. Do not isolate the pig and forget about it because you are not sure what to do with the animal.

When you have an animal that is predisposed to going down, consult with your veterinarian on whether you should humanely euthanize on farm, attempt treatment, slaughter quickly or market through normal channels.

If euthanized on farm, you need to be sure that the pig is unconscious very quickly and remains unconscious until dead. The pig should not be handled roughly before being killed, and the method used should not endanger human life. The course of action you and your veterinarian choose needs to take into account the animal's welfare, public health concerns and economics.

When you find it necessary to treat an impaired animal, pay strict attention to medication withdrawals. (Enroll in the Pork Quality Assurance Program for additional treatment guidelines and antibiotic withdrawal charts. See page 22.)

Also, note if the pig has been on medicated feed with a withdrawal that must be observed. Culling sows directly from the farrowing rooms may be a problem if routine antibiotics are used that have long withdrawal times.

MINNESOTA LIVESTOCK  
MARKETING ASSOCIATION,  
Kansas City, MO, January 25, 1991.

MEMORANDUM

To: All Minnesota livestock markets.

From: Minnesota Livestock Marketing Association, Board of Directors.

Subject: Policy statement regarding the handling of downed and distressed livestock  
Whereas, on occasion livestock sellers and/or producers deliver to livestock markets downed or severely distressed animals which are extremely difficult to unload and/or move; and

Whereas, the Minnesota Livestock Marketing Association Board of Directors believe that the handling of downed and severely distressed animals should be done in a humane manner; and

Whereas, it is near impossible to unload and/or move downed and severely distressed animals in a humane manner without first euthanizing them.

Therefore, be it resolved, That the Minnesota Livestock Marketing Association's Board of Directors strongly recommends that all Minnesota Livestock Markets adopt the following policy as well as take whatever steps are necessary to insure the humane treatment of downed and severely distressed animals:

1. No animal will be permitted to be unloaded at this livestock market unless such animal can walk off of the truck or trailer unassisted.

2. All animals which become immobile (i.e. cannot walk unassisted) after being unloaded will be euthanized by stockyard management in the sole discretion of stockyard management and the livestock market reserves the right to charge the cost of euthanizing such animal to the owner thereof.

3. The decision whether or not an animal has become immobile and therefore must be euthanized shall be made in the sole discretion of the livestock market and/or commission firm owner and the livestock market veterinarian.

MAY 17, 1991.

To: All Hog Markets.

From: David Meeker, Ph.D., Vice President, Research and Education, NPPC.

You are probably aware that the livestock industry is receiving bad publicity from some video pictures taken at the South St. Paul Stockyards.

The video shows stockyards' personnel handling downed animals in a manner easily interpreted as inhumane. The people who filmed the incidents also alleged that downed animals sometimes went days without food and water.

After consultation with NPPC and several Minnesota livestock organizations, the South St. Paul Stockyards and United Stockyards Corporation's public stockyards at six other locations have announced a policy of not receiving downed livestock. The South St. Paul situation, and others, make it essential that the livestock industry address this issue to prevent erosion of consumer confidence in the livestock industry's commitment to humane handling. A reasonable, defensible position must be found for handling swine or we stand to lose greatly. To do nothing is unacceptable. Thus NPPC has outlined this position regarding swine:

The NPPC has outlined this position:

1. Marketing facilities should stop accepting crippled swine unable to walk, and they should make that policy known to all interested parties.

2. Swine that have become injured in transit should be handled in a humane manner, and depending on condition, be either immediately euthanized or transported as quickly as possible to slaughter.

This position is consistent with the producer guidelines NPPC established well over a year ago for swine handling in environmentally controlled housing.

NPPC will also be communicating the following position to pork producers; (1) Crippled swine unable to walk, or sick swine that will not receiver, should be humanely euthanized on the farm and not transported to market; (2) Transport of swine to market should be done in trucks with adequate ventilation and nonslip floors.

We hope we can count on you for help and cooperation in this matter. We must all work together to establish reasonable procedures for humane animal handling, or much more unacceptable standards will be forced upon us from outside groups. Thanks for your support. \*

REGARDING BOYS TOWN'S 75TH  
ANNIVERSARY

• Mr. KERREY. Mr. President, this week, the Nebraska congressional delegation is commemorating the 75th anniversary of Father Flanagan's Boys Town. Since 1917, when Father Edward J. Flanagan first established a home

for wayward boys in Omaha, Boys Town has provided a positive, nurturing environment for disadvantaged and neglected boys and girls.

Boys Town was originally established to care for a small number of abused and homeless boys. Father Flanagan affectionately welcomed boys of any race or religion. Today, the institution has grown to provide food, shelter, education, and spiritual growth for over 15,000 boys and girls a year, faithfully building self-confidence in youth who had little hope in their future.

Although Father Flanagan originally envisioned a residence for youth who were products of broken homes, Boys Town today embraces children from troubled homes, children with drug histories, victims of sexual abuse, youth who have attempted suicide, and youth with learning disabilities. While the composition and size of the community has changed, the mission has not. Its goal is to extend love and support to youth who have endured great hardships in their lives.

Boys Town is more than a caretaker for troubled adolescents. It offers comprehensive services including counseling for runaways, parent-training programs, surrogate parenting, and rehabilitation treatment. Importantly, Boys Town works to instill a sense of courage and determination in the youth that enter this community. Boys and girls leave Boys Town with a new strength of character, empowering them to meet the challenges of tomorrow.

The poignant illustration of a young boy carried on the back of a teenager, who says "He ain't heavy, Father, he's M' brother", depicts an image of the compassionate spirit fostered at this institution. Recognizing that adolescents need guidance to cope with daily problems, Boys Town simulates a family living environment in which each adolescent lives in a home with a married couple. These couples, referred to as family-teachers, teach the youth skills to prepare for adult life. In addition, they work with them to develop good manners and reliable work habits. Although these couples carry a heavy responsibility, most agree that it is the most rewarding job they have ever had.

While the family-teachers provide a stable environment at home, the youth can turn their attention to their future. Boys Town concentrates on enabling these boys and girls to acquire a skill and an educational foundation to lead more productive lives. In addition to requiring high school attendance, Boys Town equips interested students with a vocational trade.

Students also acquaint themselves with the American political system. Because youth are the backbone of Boys Town, the city government of Boys Town is run by the young residents. Student justices even oversee the court's handling infractions of village laws.

Based on its success in Omaha, Boys Town is expanding its services across the Nation. Boys Town has established or is planning to operate residential facilities in 9 states and the District of Columbia. Through this effort, troubled youngsters all across America will have the opportunity to make a new start.

On behalf of all Nebraskans, I would like to extend my appreciation for the contributions Boys Town has made to our State. Boys Town's work in providing opportunity to disadvantaged youth is to be commended. By addressing the conditions that produce indifference and despair, this historical institution will continue to enhance the dreams of its residents. I join the rest of the Nebraska delegation in congratulating them on their 75th anniversary. ●

**THE SABBATH OF REMEMBRANCE**

● Mr. KOHL. Mr. President, I would like to bring to my colleagues attention a very important day in the Jewish community, tomorrow, March 14, 1992, Shabbat Zacor, the Sabbath of Remembrance. This year, the American Jewish community will be remembering and praying for the threatened Syrian Jews.

There are 4,000 Jews living under unfortunate and intolerable circumstances in Damascus, Aleppo, and Kamishli. The Syrian Jews are denied their individual human rights. They are not allowed to leave their country, a right guaranteed to them in the Universal Declaration of Human Rights. They live in constant fear and insecurity, under consistent supervision by the Mukhabarat or secret police. This situation is unacceptable and must be both recognized and ended.

The Sabbath of Remembrance marks the anniversary of a horrible event, symbolic of the situation, which occurred in Syria. In 1974, four young Jewish women attempted to escape from Syria. Unfortunately they were caught by Syrian authorities who proceeded to rape, murder, and mutilate the young women. They then continued to put the bodies into sacks and throw them in front of their parent's homes in the Jewish ghetto of Damascus. These acts are unacceptable and must be prevented.

So this year we remember the fate of those four Syrian Jews and the fear of the 4,000 Jews who are trapped in a country they wish to leave. But we must also recognize that if Syria treats Jews who live in their country so harshly, then the Jews who live in Israel have reason to be concerned. And so do those who believe that American policy in the region is ignoring the nature of the Syrian regime. ●

**AUTHORIZING USE OF THE CAPITOL ROTUNDA FOR CEREMONY REGARDING EX-PRISONERS OF WAR**

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 101) authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, this is a concurrent resolution on behalf of the distinguished minority leader and the majority leader.

Mr. SIMPSON. Mr. President, I also add that it is for the use of the rotunda of the Capitol for the American ex-prisoners of war ceremony.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 101) was agreed to.

The concurrent resolution is as follows:

**S. CON. RES. 101**

*Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used by the American Ex-Prisoners of war on April 9, 1992, from 11:00 o'clock ante meridian until 12:00 o'clock noon for a ceremony in recognition of National Former Prisoner of War Recognition Day. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.*

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**SENSE-OF-THE-CONGRESS RESOLUTION REGARDING LIBERIA**

Mr. SIMPSON. On behalf of Senator KASSEBAUM and others, I send to the desk a Senate joint resolution regarding Liberia and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 271) expressing the sense of the Congress regarding the peace process in Liberia and authorizing reprogramming of existing foreign aid appropriations for limited assistance to support this process.

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. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

**S. J. RES. 271**

Whereas the civil war in Liberia, begun in December 1989, has devastated that country, killing an estimated 25,000 civilians and forcing hundreds of thousands of Liberians to flee their homes;

Whereas in an effort to end the fighting, the parties to the Liberian conflict and the leaders of the West African states signed a peace accord in Yamoussoukro, Cote d'Ivoire on October 30, 1991;

Whereas this agreement sets in motion a peace process, including the encampment and disarmament of the fighters and culminating in the holding of free and fair elections;

Whereas despite several difficulties, this peace process continues to proceed largely on track, including the recent opening of roads in Liberia and the initiation of the political campaigns by several parties; and

Whereas the election process outlined in the Yamoussoukro agreement is essential for reestablishing peace, democracy and reconciliation in Liberia, and limited U.S. assistance could plan an important role in promoting this process: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress—*

(1) Strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

(2) Urges all parties to abide by the terms of the Yamoussoukro agreement;

(3) Commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

(4) Extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

(b) AUTHORIZATION OF LIMITED ASSISTANCE—Notwithstanding section 691(a)(5) of the Foreign Assistance Act of 1961 or any similar provision, the President is authorized to provide—

(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance to implement the Yamoussoukro peace accord;

*Provided, That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is other-*

wise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY  
POSTPONED—S. 2325

Mr. FORD. I ask unanimous consent that Calendar No. 420, S. 2325, a bill making miscellaneous changes in the tax laws, be indefinitely postponed.

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

Mr. FORD. Mr. President, I ask unanimous consent that Senator SPECTER be recognized to address the Senate.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I want to add to the statement which I have submitted my compliments to the distinguished Senator from New Mexico, Senator DOMENICI, from the proposals which he had advanced here this evening. I was sorry he did not propose an amendment on the tax bill, but he declined to do so. He declined to do so because of the lack of support and the lateness of the hour and the impossibility of changing the course of what was essentially to be a party-line vote here this evening.

But Senator DOMENICI has put forward an economic package which should be agreed to, I think, by a vast majority of the Senators and Members of the House of Representatives and signed into the law for the President.

As I have seen the matters evolve here, Mr. President, since last fall—and I have said this before and shall be very brief this evening—it was unfortunate that we did not move ahead to tackling the problems of the recession last fall. I had suggested on this floor that the December and January recesses be canceled, so that we take the time for legislation and for an economic recovery proposal.

Right after the State of the Union speech, I urged the cancellation of the February and March recesses. In fact, the March recess was canceled. It was this week that we moved ahead on this legislation. But it has unfortunately evolved into a party-line matter. The Finance Committee approved the tax bill on a straight party-line vote. It was largely party line here today, and I think that works to the disadvantage of the American people; but, when the strategy works through—with the party-line votes in the Congress, a Presidential veto—then perhaps we can move down to negotiate, to do some-thing about the serious economic prob-

lems facing this country. I think that the proposal advanced by Senator DOMENICI should provide the framework to accomplish that.

I thank the Chair and yield the floor. Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SIGNIFICANT AND POSITIVE  
ACTION

Mr. MITCHELL. Mr. President, before concluding I want to say, again, that I believe the Senate took significant and positive action today to assist economic recovery and long-term growth and fairness in our tax system earlier today. The President proposed seven growth incentives but did not offer any way to pay for them. If the President's plan had been enacted, the deficit would have been increased by \$24 billion according to the Congressional Budget Office.

We accepted the President's proposals with respect to growth incentives—improved and modified some of them. We then proposed the means to pay for them. That means was raising the tax rate on the wealthiest seven-tenths of 1 percent of Americans. The revenue from that increase on the wealthiest seven-tenths of 1 percent of Americans is used under the bill to pay for the growth incentives which the President proposed and which we adopted with modification and improvement and to reduce taxes for a substantial number of middle-income Americans, thereby achieving the triple objective of not increasing the deficit by \$24 billion as the President had proposed, passing the growth incentives which the President had proposed, which are intended to spur job creation and economic recovery, and at the same time achieving greater fairness in the Tax Code.

Mr. President, I believe each of those to be an appropriate, valid objective which is accomplished by this legislation. The President has said he will veto this bill, and he has said he will veto it because it raises taxes. It raises taxes on seven-tenths of 1 percent of the wealthiest Americans.

So what the President is saying is that he is protecting the wealthiest 1 percent of Americans at the expense of the other 99 percent, because many of those 99 percent would receive a reduction in their taxes under this bill in an effort to restore fairness to the tax system which was largely lost in the decade of the 1980's.

I believe, Mr. President, we need fairness in our tax system, and we do not

have it now. I believe it is middle-income American families, who in the past decade have seen their incomes decline and their taxes rise, who most need and will benefit from fairness in our tax system.

I hope the President will change his mind and sign this bill because this bill promotes economic growth; it creates fairness in the tax system; it does not increase the deficit; and it will do all of those things in a manner that this country badly needs.

I especially hope that the President will not veto it on the grounds that he stated, and that is protecting the wealthiest 1 percent of all Americans at the expense of the other 99 percent. That is not right. It is not fair. It is not good for our country's long-term economic interests.

So, Mr. President, I am gratified by the Senate action today. I look forward to adopting the conference report on this tax bill next week, and I hope the President signs the bill.

ORDERS FOR TUESDAY, MARCH 17,  
1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m. on Tuesday, March 17; that following the prayer, the Journal of proceedings be deemed approved to date, and following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein, with Senator DURENBERGER recognized for up to 15 minutes, Senator HEFLIN for up to 10 minutes, Senator SIMPSON or his designee for up to 5 minutes, and Senator BYRD for up to 1 hour.

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

PROGRAM

Mr. MITCHELL. Mr. President, the Senate will not be in session on Monday. The Senate will be in session on Tuesday, but there will be no rollcall votes on Tuesday. The earliest rollcall votes next week will occur on Wednesday, March 18. Senators should be advised that the session on Tuesday will be for purposes of morning business and such discussion as Senators wish to engage in but that there will be no rollcall votes.

During next week, it is my hope the Senate will be able to return to and complete action on the legislation re-authorizing the Corporation for Public Broadcasting. We will have a cloture vote on the conference report on the omnibus crime control bill. That is the cloture vote that had previously been scheduled for today but which, under the existing order, I will now schedule for sometime during next week. And that will occur on Wednesday or Thursday.

