SENATE—*Friday, April 10, 1992*

(Legislative day of Thursday, March 26, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

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

Let us observe a moment of silence for the family of former Senator, Gale McGee, who died yesterday. [Moment of silence.]

Let us pray:

Eternal God our Father, far too often families are hostage to Senate schedules and tragically neglected as business preempts time and concentration of the Senators. As we anticipate the Easter/Passover recess, grant that Your servants will give priority to their families and take seriously biblical exhortation.

"Submitting yourselves one to another in the fear of God. * * * Husbands, love your wives, even as Christ also loved the church, and gave himself for it. * * * And, ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord."—Ephesians 5:21, 25; 6:4.

Gracious, patient God, at a time when the dysfunctional family is recognized as a source of great social disorder, help the leadership of our Nation be examples of what family life ought to be in the interest of national life. Help the Senators to give themselves permission to take time, to make time for their families.

In the name of Jesus who said, "* * * *Suffer little children, and forbid them not, to come unto me: for of such is the kingdom of heaven.*"—Matthew 19:14. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 10, 1992.

To the Senate:

Under the provisions of Rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN 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.

RECOGNITION OF THE MAJORITY LEADER

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

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

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

Mr. MITCHELL. Mr. President, am I correct in my understanding that, under the previous order, the Senate will be returning to the consideration of the budget resolution?

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

Mr. MITCHELL. I further understand that under the previous order, Senator DOMENICI is to be recognized to offer a substitute resolution.

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

Mr. MITCHELL. Mr. President, I note that Senator DOMENICI has just entered the Chamber.

I suggest the absence of a quorum and permit the time to run against the resolution.

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

The legislative clerk proceeded to call the roll.

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

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

CONCURRENT RESOLUTION ON THE BUDGET

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 106) setting forth the congressional budget for the United States Government for fiscal years 1993, 1994, 1995, 1996, and 1997.

The Senate resumed consideration of the concurrent resolution.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from New Mexico [Mr. DOMENICI] is recognized to offer a substitute amendment.

Mr. DOMENICI. Mr. President, I yield myself time off the resolution.

We are in the process of making sure that the proposed substitute conforms with the amendments that were cleared last night so that we do not have a substitute that leaves out some of those things the Senate approved yesterday afternoon and into the evening. We will have that ready soon at which time we will tender the substitute.

In the meantime the distinguished junior Senator from Virginia, Senator ROBB, is on the floor and he wants to speak in support of the substitute which will be offered. I ask unanimous consent that he be allowed to speak and take it off of the resolution on our side.

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

Mr. DOMENICI. How long would the Senator like to speak—10 minutes?

Mr. ROBB. Not to exceed 10 minutes.

Mr. DOMENICI. Not to exceed 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Virginia [Mr. ROBB] is recognized for a period not to exceed 10 minutes.

Mr. ROBB. Mr. President, I thank the senior Senator from New Mexico. I speak now because I am going to be attending a hearing during the next few hours in the conference committee and will not be available for the regular debate. I would like to say a few words that relate to the general purpose of the amendment.

Mr. President, the key to controlling the budget has never been much of a secret. As the senior Senator from New Hampshire pointed out in his compelling farewell address, entitlement payments are the three-alarm fire which threatens to burn down their entire budget.

Our amendment goes right to that point. It caps entitlement spending in a very reasonable and responsible way which allows programs to meet their commitments to the constituencies we have pledged to serve. It cuts defense spending by more than the President's budget, yet does so based on a clear strategic vision and it is built from the bottom-up, by the Chairman of the Armed Services Committee. And most importantly, it shows a practical way to move in the direction of what I believe we all want: a balanced budget—although I am personally prepared to move in that direction even more rapidly.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Equally important is what it does not. This amendment achieves budgetary savings without stunting economic growth. It sets targets well in advance so they can be planned for and met without undue hardship or avoidable waste, and it preserves the domestic discretionary budget. This is not just a sense of the Senate or a political gimmick; it is a substantive plan designed to move us toward our goal of true fiscal responsibility.

The Federal debt is about $3.9 trillion and rising fast.

We talk every day in this body about billions and trillions of dollars. After a while, those figures can lose their meaning. Let me try to put it into a new perspective.

Mr. President, you and my other colleagues are probably familiar with M&M's, the little candy. The folks of M&M/Mars, a good Virginia company, tell me that they crank out some 200 million M&M a day. That company has been going continuously since 1940. Yet, in all that time, Mars still has not made as many M&M's as there are dollars in the public debt. If M&M's cost $1 each, we would probably cut down on our consumption. Why we have not applied that same logic to debt dollars—which, because of interest, cost us far more than $1 dollar each—is beyond me.

If we do not get control of entitlements—if we leave the budget on its present course—the Congressional Budget Office says that mandatory spending will grow from $710 billion to $977 billion by fiscal 1997. Net interest payments—just interest payments—will reach $280 billion. That does not create a job, or restore a child's health, or defend the Nation. That is just money right off the top for debt service. And it would be all for naught, since CBO projects that if we do nothing, while the deficit may be predicted to shrink for a while, it will begin to rise again in 1999.

That is why I joined my distinguished colleagues in sponsoring this resolution. I will tell you frankly that I do not agree with every number on every line of this resolution. And it is important that we be willing to match caps on Federal spending with restraints on the tasks that we transfer to the States. It would not be fair to once again cut the funds they have to work with while increasing their responsibilities.

We can fine-tune the numbers in due course through the existing committee structure. The important action required of this body today is to address the most important single element of our budgetary crisis. To put out a fire, you do not pour water on the part of the building that is not burning; you douse the flame.

Any time, Mr. President, you mention entitlements, its easy to be misunderstood or to have one's argument misconstrued. I hope that those who may disagree with us will appreciate the spirit in which this proposal is offered. We do not seek to end entitlements, or even to reduce them. We do, however, believe that it is necessary to restrain their growth. That is, first and foremost, what this amendment does.

Mr. President, I urge my colleagues, once the amendment is formally offered by the Senator from New Mexico to join us on the path to fiscal responsibility and hopefully, eventually toward a balanced budget. That path starts here; it starts now; it starts with a realistic budget that applies restraint where it is most needed and most effective. In my judgment, Mr. President, we cannot begin too soon.

I thank the Chair and I thank my colleagues and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Chair would inquire as to under whose time the quorum will be charged. Under the rules, the Chair would inform the distinguished Senator from Virginia, in order to suggest the absence of a quorum the Senator must control time. The question arises as to whose time will the absence of a quorum be charged to?

Mr. ROBB. Mr. President, in the absence of any prior agreement, I ask unanimous consent that time be charged equally.

Mr. SASSER. I object, Mr. President.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. SASSER. Mr. President, I assume the Senator from Virginia is speaking on the time of the proponents of the amendment and I would suggest the time be charged against the proponents of the Domenici-Nunn substitute.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair views that as a unanimous-consent request.

Mr. ROBB. Mr. President, I think that the distinguished senior Senator from Tennessee can certainly object to the request that it be divided equally, but I had made a previous request that it be divided equally in accordance with what is normal procedures in the Senate when there are no Senators seeking recognition. I would hope that that would prevail.

But the simple request to have it all charged to the proponents has been made and it is assumed there is no objection. I would note objection to that procedure. However, that procedure, in the absence of ability to pursue the course requested, has probably the same effect.

The ACTING PRESIDENT pro tempore. The Chair might inquire, from a parliamentary point of view, has the Senator from Virginia objected to the unanimous consent request propounded by the Senator from Tennessee which the Chair understood was to charge the time under the quorum call to the proponents of the amendment?

Mr. ROBB. The Senator from Virginia objected.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Chair would inquire as to who yields time?

Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. RIEGLE. I wonder if the Senator from Tennessee might yield me 1 minute.

Mr. SASSER. I am pleased to yield to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 1 minute.

Mr. RIEGLE. I thank the Senator.

Before the Senator from Virginia leaves the floor, I expect we are going to have a spirited debate here and I just want to make it clear that I view this amendment as an attack on elderly people of this country. We have seen it before and we saw in the 1980's when Reagan came after Social Security and came after Medicare. They are coming after Medicare again here. I think it is outrageous.

I do not want anybody to be under any misapprehensions, the Senator from New Mexico or anybody else, about these efforts to cut these programs for senior citizens in this country and the protections that they need for their health in order to maintain the fat tax cuts of the 1980's that went to the wealthiest people of this country, and that are too large and part of which has to come back into the Treasury. You are going to have a hot debate here today before it is over.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we will be ready shortly to send the amendment up. But I do not want to waste time, so I will start debating the issue. I say to Senator SARBANES we just were telling the chairman we do not have the amendment perfected nor all the amendments that were added yesterday, but it will be ready very shortly.

Mr. SARBANES. Will the Senator yield for one question?

Mr. DOMENICI. Sure.

Mr. SARBANES. Was this amendment considered in the committee?

Mr. DOMENICI. No, this amendment was not considered in the committee.

Mr. SARBANES. I find that very interesting because it is an amendment that is sweeping in its import. I think the Senator from Michigan just made a very important point. It seems to me, and we will obviously have an opportunity to debate this, but to try to introduce this kind of sweeping proposal without even having considered it in

the committee and examined it in the committee is not a very encouraging way to do business.

Mr. DOMENICI. Well, I thank the Senator from Maryland, but let me tell you, I introduced this as a freestanding budget resolution more or less on April 1. It has been here and pending because it was in the RECORD.

But, nonetheless, I do not believe this matter requires extensive public hearing. In a couple of hours everybody is going to understand what we are going to try to do.

The ACTING PRESIDENT pro tempore. The Chair will inquire of the Senator from New Mexico, without objection, the Chair is assuming the time is now being charged against the Senator offering the amendment?

Mr. DOMENICI. I indicated at the outset that I wanted it charged on the resolution off my side.

The ACTING PRESIDENT pro tempore. The Senator has that right and the Chair notes the request.

Mr. DOMENICI. Mr. President, let me open this discussion this morning by taking everyone back to a point in time when Spencer Tracy and Katharine Hepburn were in a movie. Some might remember that movie. Katharine Hepburn, a newspaper publisher, is trying to talk Spencer Tracy, a successful businessman, into running for president. Tracy gives a rousing speech to the chamber of commerce about the country and what is wrong with professional politicians. I could not imitate Spencer Tracy, but let me in my own way tell the Senate what he said on that particular day to the chamber of commerce as it was all staged.

Politicians, said he, instead of trying to pull the country together, are helping to pull it apart just to get votes. To labor, they promise higher wages and lower prices; to businesses, higher prices and lower wages; to the rich, the agenda of let us cut taxes; and to the poor, we will soak the rich; to the veteran, cheaper housing; to the builders, uncontrolled housing prices.

Well, things have gotten no better. If anything they have gotten worse. So today, I will be sending a substitute budget resolution to the desk because I am very worried about what is going to happen to the United States of America and what we are going to leave for our children and our children's children.

We just came out of a recession and Americans were worried about their future. They had little confidence in the future. In their hearts and in their minds they were wondering if their children were going to have a chance to have a job, an opportunity, to make progress, have an increased standard of living.

I am here today to suggest to the American people and to the Senators that want to look at the future, that the future of the United States of America is bleak unless we control the ever-expanding deficit.

In fact, Mr. President, I believe the children and grandchildren of the adult Americans today and of those who purport to be leaders of America, I believe they are destined to a life of less and less and less.

I have, on one occasion, called this proposal save our children from poverty.

Everybody suggests that we ought to have jobs for our people and I believe they are saying jobs for our children, and opportunity to earn a living. Almost every group in America is worried about jobs for the future. The facts are stark. Senators, Budget Committee chairmen, ranking Members, for 15 years now have brought budget resolutions to the floor of the Senate and suggested we were getting the budget under control and getting the deficit under control, only to find that after the votes were cast and after the facts were in, the deficits did not come down, they went up.

Frankly, with the budget resolution that is before us reported out of the committee—I helped get it to the floor—deficits in the future will not come down appreciably. But if they do, and they come down to somewhere around $200 billion a year, then they will start back up. And I regret to tell the Senate that if we leave everything alone—which I assume those who oppose some reform and some rational control, they will be saying leave it alone—let me suggest that once this deficit in 1997 gets to $236 billion, it will start up again. And by the year 2002 it will be $423 billion.

Let me put it another way. If we do not do something, and for those who do not want to apply some reason to the mandatory expenditures of our Government, then they ought to suggest what we should do. We cannot tax the American people enough to get this deficit down. We cannot cut defense enough to get it down. We could get rid of the entire discretionary budget and it would not solve this problem. We will double the debt of the United States between 1993 and 2002. It is $3.1 trillion now. It will be $6.2 to $6.3 trillion by 2002. There is no way around it unless we decide to do something reasonable and rational to save our children's future.

Let me suggest what the Senator from New Mexico, the Senator from Georgia, the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Virginia [Mr. ROBB] are going to place before the Senate soon. We are going to ask the Senate to do what is right for all America. We are going to say, first, from 1994 through 1997 or 1998, we are going to accept the defense reductions recommended by the Armed Services Committee chairman, Senator NUNN: About $35 billion. And we are going to apply those back to the discretionary accounts with sense-of-the-Senate language saying they ought to be added to a frozen—5-year freeze in appropriated accounts, domestic; add the $35 billion back to be used for what many have said are incentives for growth: Education, infrastructure, and things of that sort. That is the language and that is the hope. But in any event those savings go back into discretionary. Foreign assistance is frozen for 5 years.

That means we have to look at two other things. This resolution says take Social Security and leave it alone because it is pretty obvious that the taxes collected for Social Security well beyond 2002 will pay for the checks to each senior citizen and all the new ones joining and will provide for an increase each year equivalent to the cost of living. So Social Security is left intact.

We have then said there is only one other thing and it is the rest of the mandatory expenditures of our Government. The rest of the mandatory expenditures of our Government—and we can go though a list before we finish our debate on our side and inform the Senate what kinds of things are in there—but essentially it is a group of programs that fund automatically, and are about $450 billion this year. Those programs will grow automatically to $912 billion, almost $1 trillion by 2002. They will be growing from 1993 to 2002, 8.2 percent. So if the inflation is 3 percent they will be growing at 5 percent more.

We understand part of that growth is because new people that are qualified are added to the beneficiary rolls. But we also know that the remainder of that super cost is because we have not, as a Congress, looked at these programs to see if there are any reforms possible that will reduce their cost and yet accomplish the primary goal of our country, to help the beneficiaries with either money or services as contemplated by the general law that gives them our resources.

Frankly, there are going to be all kinds of speeches much like that the Senator from Michigan gave, and more, about this terrible plan and how it is going to hurt people. As a matter of fact it is amazing, it is amazing—since yesterday afternoon when the Senator from New Mexico, joined by his cosponsors, first discussed in depth what was in that resolution that we introduced here in the Senate, our proposal to save America and to save our children from poverty, we already got telegrams 2 hours after it from all over the country saying that this is going to hurt a veteran's group, this is going to hurt people on welfare, this is going to hurt seniors on Medicare. And, frankly, I only ask that each of those beneficiary groups and each of those people, Americans, before they get worked up about this, they listen to what is being proposed and that they evaluate whether they want to be part of saving the

United States of America's economy or do they want it to go bankrupt?

That is a harsh statement, but I believe, Mr. President, and the reason I brought this substitute resolution to the floor is because the American people and fellow Senators have to understand what is going to happen. There is no use glossing it over anymore. If we do not change, we are going bankrupt.

Let me tell you what I think is bankruptcy in America. We will not file a chapter 11 for this great Nation, but we are going to have permanent recessions. If we had a 2-year recession and we could hardly stand it, you continue the current policies of spending tax dollars that we do not have, telling Americans that we can give them whatever they have been getting and more, stay on that course and the debt will double in 10 years.

We will have literally no net savings. Business will not be able to borrow money to grow. Foreign countries will have us by the neck. We will borrow to the hilt. And if we are worried about Japan today, just continue this debt until they own so much they will decide whether we are going to do what we want or not or whether we are going to do what they want or not. And that is going to occur regularly, to the extent that this Senator does not want to be there and say at least I tried.

I do not want to be there when they say, "Why didn't you know about it? Why didn't you do something about it, Senator?" and be unable to respond.

I respond today by saying it is almost too late. It is an election year, and if we do not do it now, next year is an election year, and 2 years after that, and this deficit will continue to gobble up our savings, inhibit our productivity and the grandeur of America will turn pale and we will evidence sustained recessions or incredible inflation, one or the other.

Having said that, this proposal that Senators NUNN, RUDMAN, and ROBB offer with me is as follows: We take all of the mandatory expenditures of our Government, we put those expenditures in one package, excluding Social Security—that means Medicare, that means Medicaid, that means farm programs, all of them——

Mr. SARBANES. Will the Senator yield for a moment?

Mr. DOMENICI. I want to finish my thought, please.

Mr. SARBANES. I just need a list of the programs the Senator is talking about.

Mr. DOMENICI. We will furnish that. We will be glad to.

Mr. SARBANES. Does the Senator have that list?

Mr. DOMENICI. Yes.

We are going to put those programs in one package. We are going to look at it and say, how much are those programs growing, all combined? And we find, sad to say, that on their own, automatic pilot, nothing to do about it in the Congress; the President cannot do anything about it, they are growing at 8.2 percent a year, such that that one bundle of programs will double in size in 10 years. It will be approaching $1 trillion.

Now, Mr. President, before we hear the cries of anguish, just listen and see if we have not been reasonable, practical, and tried to do something that is deserving of our leadership in the Senate.

First, we said we will do nothing about it. We will leave it just as it is for the year 1993, knowing full well that Congress is seriously considering total reform of the health care programs of the country.

So we leave it alone for 1 full year. In the following year, 1994, we say all of these programs should grow but any new case load, any new person who is entitled, comes into that bundle and gets what they are entitled to. We add inflation to every program, so any pension-type program that is in there, we say add inflation. And then we say, on top of that, we will add 2 percent. So we are not just providing for inflation and new cases, new coverage that comes into the program, we are also saying add 2 percent.

Now, Mr. President, for those who are wondering what happens then—we have just finished 1993, now we are in 1994—at that point, applying that formula, no significant reform is necessary. However, that is 2 years to take a serious look at what the new health care program is going to be; how much is it going to cost? At that point there is clearly a target against which they can put the new programs in place.

Then in 1995, that 2-percent kicker, that superinflation that we have added on, becomes 1.5, the year after that 1, and the year after that zero.

So that entire bundle of mandatory expenditures will continue to grow as we have described it now—1993 just like it is; 1994, 2 percent on top of all the people and all the institutions that are covered plus inflation; and then down to 1.5, 1, zero.

It just happens, Mr. President, that puts in place a requirement that the committees of the Congress look at this entire package each year and determine whether or not they want to reform some, change some, so that they will not grow as fast as they did before.

Mr. President, I will submit for the RECORD, since some will ask how will the committee do this, a document entitled "Deficit Reduction Options, Entitlement and Other Mandatory Spending." I ask unanimous consent that it be printed in the RECORD.

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

DEFICIT REDUCTION OPTIONS ENTITLEMENT AND OTHER MANDATORY SPENDING

[CBO revised baseline, outlays in millions of dollars]

	Function and option	1993	1994	1995	1996	1997	Total 93–97
270	Reduce REA subsidies	30	70	130	170	200	600
270	Require DOE to raise rates for federal hydroelectric power to speed debt repayment	.....	260	250	240	220	970
300	Hardrock mining claim fees	.....	60	60	60	60	240
300	Federal water charges	15	15	15	20	20	85
300	Recreation user fees	170	180	190	200	210	950
300/800	Net-Receipt distribution for revenue-sharing programs	190	200	210	210	220	1,030
270	Nuclear waste disposal fees	20	40	60	80	100	300
350	CCC—Reduce deficiency payments lowering target prices	440	1,550	2,150	3,200	5,950	13,290
350	Eliminate wool price supports	.....	190	190	200	200	780
350	Eliminate honey program	20	20	2	2	2	46
350	Reduce export loan guarantees	−45	410	420	450	400	1,635
350	Eliminate export enhancement program	310	740	670	640	610	2,970
350	Eliminate market promotion program	100	200	200	200	200	900
350	Reduce dairy price support	140	230	250	270	280	1,170
350	Eliminate federal crop insurance	270	620	640	650	660	2,840
370	FCC spectrum royalties	1,500	1,600	1,800	1,900	2,000	8,800
370	FDIC examination fee	200	280	280	290	300	1,350
400	Airport slot fees	300	300	300	300	300	1,500
400	Air traffic control service user fee	700	1,450	1,550	1,650	1,700	7,050
400	Inland waterway user fees	350	360	380	390	410	1,890
500	GSLs—Eliminate in-school interest subsidy	600	890	910	930	930	4,260
500	GSLs—Default risk-sharing: Lower allowable rate to one-year 20 percent	310	310	310	310	310	1,550
500	GSL co-origination fee	330	490	500	510	510	2,340
500	Limit foster care admin to 10 percent growth	65	150	240	350	480	1,285
500	Medicaid—Estate recovery	75	150	250	400	450	1,325
500/600	Single state admin grant for low-income programs	500	830	1,200	1,600	2,050	6,180
550	FEHB—Prefund annuitants health benefits	.....	2,950	4,300	4,350	4,350	15,950
550	FEHB—Modify hospital reimbursement	.....	120	300	560	710	1,690
570	Medicare—Eliminate disproportionate share adjustment	1,900	2,400	2,600	2,800	3,000	12,700
570	Medicare—Reduce indirect costs payment to 6 percent	550	680	740	800	860	3,630
570	Medicare—Reduce direct payments for medical education	160	180	190	200	200	930

DEFICIT REDUCTION OPTIONS ENTITLEMENT AND OTHER MANDATORY SPENDING—Continued

[CBO revised baseline, outlays in millions of dollars]

	Function and option	1993	1994	1995	1996	1997	Total 93–97
570	Medicare—Eliminate payments to sole community hospitals	180	220	240	260	280	1,180
570	Medicare—Eliminate ROE payments to skilled nursing facilities	55	60	65	70	75	325
570	Medicare—Freeze PPS rates for 1 year	1,600	2,150	2,400	2,600	2,850	11,600
570	Medicare—Transition to PPS for outpatient	180	580	780	930	1,100	3,570
570	SMI claim processing fee	230	260	220	170	100	980
570	Medicare—Reduce payments for intraocular lenses	120	190	200	200	200	910
570	Medicare—Freeze SMI reimbursement	350	580	640	790	920	3,280
570	Medicare—Collect coinsurance for home health care	1,600	2,150	2,400	2,700	2,950	11,800
570	Medicare—Increase SMI premium to 30 percent	1,360	1,950	2,920	4,920	7,170	18,320
570	Medicare—Increase SMI deductible	900	1,700	2,260	300	3,980	9,140
570	Medicare—Collect coinsurance for clinical lab services	600	1,020	1,170	1,340	1,540	5,670
600	Federal civilian retirement:						
	Defer COLAs until 62	.....	.....	.....	.....	.....	.....
	Limit COLA to CPI–½	.....	.....	.....	.....	.....	.....
	Change benefit calculation from "3-high" to "4-high"	.....	.....	.....	.....	.....	.....
	Restrict agency match on TSP	.....	.....	.....	.....	.....	.....
	Total, all changes	470	770	1,050	1,400	1,700	5,390
600	Military retirement:						
	Defer COLAs until 62	.....	.....	.....	.....	.....	.....
	Limit COLA to CPI–1	.....	.....	.....	.....	.....	.....
	Change benefit calculation to 12-month average	.....	.....	.....	.....	.....	.....
	Total, all changes	420	1,050	1,700	2,450	3,200	8,820
600	Terminate trade adjustment assistance	220	220	210	200	200	1,050
600	Target child nutrition subsidies	340	830	960	1,050	1,100	4,280
600	Food stamps—Eliminate benefits under $10	80	80	80	80	80	400
600	Eliminate $50 child support payment under AFDC	170	180	180	190	200	920
600	Reduce income exclusion under SSI	150	160	170	170	180	830
600	Child support enforcement:						
	Reduce federal match	.....	.....	.....	520	560	1,080
	Increase fees	.....	.....	.....	55	65	120
600	SSI administration fees	140	150	150	160	170	770
700	Veterans compensation:						
	Eliminate payments for low-rated and non-service-connected disabilities	1,700	2,100	2,100	2,050	2,350	10,300
	Eliminate disability benefits for low-rated disabilities	1,450	1,750	1,700	1,650	1,850	8,400
	End dependents' allowances for low-rated disabilities	220	260	250	240	260	1,230
	End DIC awards in future cases for non-service-related	20	85	150	200	320	775
700	VA housing guarantee fee	260	270	280	290	300	1,400
700	Eliminate "sunset" dates on 1990 OBRA provisions	230	450	510	550	610	2,350
	Estimate of unduplicated savings	22,245	37,140	44,072	49,467	62,202	215,126

Source: CBO, Reducing the Deficit: Spending and Revenue Options (February 1992).

Mr. DOMENICI. Mr. President, here is a list of about 100 proposals that have been put forth by the Budget Committee of the House, Ways and Means, Finance, OMB. It suggests such things as GSL's default risk-sharing; FEHB prefund annuitants health benefits, and just a myriad of ideas that could be applied by the committees to get these programs so that they grow, 5 years from now they will be growing at inflation alone, and all new cases that need coverage.

I submit for the RECORD these options so people can look at them. Obviously, a budget resolution is not the place to adopt these. Congress will be looking at this for 2 years and decide how it can reform and take care of the maximum, where does it want to change things to be more consistent with reality.

Now, Mr. President, some are going to say why would we do this?

I think we have to ask the question why would we not do it when we do not have the money to pay for it?

Would Americans really want us to bankrupt America so that we can give them what we do not have? They have the right to ask us if we have been frugal elsewhere.

Mr. President, I cannot believe that we can be any more restrictive on expenditures in the rest of the budget than this proposal: A 5-year freeze on foreign assistance; a 5-year freeze on domestic programs. Except we give them back the peace dividend, at least the additional peace dividend, from the next 4 years of cuts, provided by the distinguished chairman of the Armed Services Committee, on defense in the outyears—put that back, Frankly, that is a very frugal approach.

Domestic programs will be growing at about 1.2 percent—nominal, but even inflation. Then we ask the entire bundle of mandatories to be looked at by the Congress; that the Congress begin planning to change them. And it has nothing whatsoever to do with anything other than the American economy cannot afford any more; the American taxpayer cannot afford any more. And the numbers are so large that you cannot tinker around the edges and fix it.

Mr. President, I am absolutely convinced that if we really had a chance to take every group of Americans that is in that mandatory entitlement package and shared with them what we are sharing right here, I am convinced that they would say: Be fair in your reforms, in changes here and there; we will sacrifice a bit; we will get a little less than we have grown used to spending. Or some changes will occur where those who are wealthy will not get so much.

There are many people of high means getting many subsidies from the United States. There are many in the health care area getting many subsidies from the United States. Medicare part B premiums: Many Americans are having 75 percent of their health care premiums paid for by the taxpayer when we pay nothing for a working man and woman with three children unless they have an employer who is providing them with insurance. Yet, we pay 75 percent, regardless of wealth, regardless of state of income, costing billions and billions of dollars.

Mr. President, it seems to me that I should add a couple more things, because we have to assume that the American economy is going to recover and grow. We have assumed that it is going to grow, as suggested by the Congressional Budget Office, about 2.2 percent; not very stupendous growth, but imagine what is going to happen to growth if we do not start down this path of fiscal sanity.

So we assume that if that does not happen, there is no chance to get the deficit under control. What we are talking about here today will not even scratch the surface.

So let me, for these opening comments, repeat:

Those who sponsor this substitute ask the U.S. Senate today to adopt a budget resolution that sets this proposal in place. And our commitment is that we will draft a law, a statute that puts these in law, and they will be enforced when the Congress adopts that law. For now, we want to put before the Congress the idea that we must get this under control, and that this is a fair way.

Mr. President, let me talk about the two programs that I am sure are going

to draw much attention, Medicaid and Medicare.

Mr. President, some will stand up and say Medicare and other programs in this mandatory group have all the money they need; leave them alone. Mr. President, there is no money for Medicaid other than the taxpayers' money. I do not think there is any question that we are not going to go through a health care reform without finding a way to have some cost containment. The cost containment on Medicaid surely will bring Medicaid down from an annual 30-percent increase to something more reasonable.

We give the Congress 2 years to plan for this before anything is done. Eventually, if we passed the law that implements this, we would pressure all of the programs by saying the total has to meet this formula. Frankly, the same for Medicare.

There is not anyone that thinks the expenditures for Medicare and for part B Medicare can go on as is indefinitely. Almost everyone that is assuming that they are going to have a new method and system of delivering health care assumes that there will be cost containment in those programs.

We are talking about helping with the cost containment by telling the committees of Congress: Here are the dollars that we can afford; let us not kid anyone. There is not any more; we are already spending borrowed money. But at least if we stay on this path, we have a chance of getting this deficit in 10 years close to balanced.

Mr. President, I know that there are some who are going to think that those of us who sponsor this amendment do so because we want to take money away from Americans who are entitled to it. Mr. President, we do this, four of us—and Senator RUDMAN will be here to talk about it, as will Senator NUNN—but we do this because we do not know any other way to save America for our children. We do not know any other way.

If the deficit does not matter, then we are off in left field. If it matters, Mr. President, the budget resolution before us, unless it is modified as we suggest, is not a blueprint for getting the deficit under control. As a matter of fact, it increases the deficit, increases the debt over the 5-year numbers, and does so rather dramatically. That we will continue to do, even though we assume we are out of the recession.

The deficit will come down a little bit because we assume the savings and loan bailout will run its course. That is in the underlying resolution; that is in the resolution we will send to the desk.

Mr. President, I am sure that before we are through not only will this resolution say, according to some, that we are taking things away from seniors and from veterans—and frankly, Mr. President, we are not taking anything away from anyone. What we are saying is that everyone in this country has to understand that there is no money in the Treasury; that we are borrowing it in wheelbarrows, millions and millions of dollars a day.

In fact, I guess it would be fair to say $1 billion a day. The deficit exceeds $365 billion, and there are 365 days in a year. So some used to say $1 million here, $1 million there really counts. Some got up to $1 billion. Well, it is $1 billion a day we are borrowing. And we will go back up beyond $365 billion a year again very shortly.

That is because even if we control everything else in the budget, this package of mandatory expenditures—and the name is pretty near right. We have set some formulas, and the money goes out—mandatory, automatic pilot.

Now I will close with these two summarizing remarks, at least for now. One, if we do not do anything to control the mandatory expenditures, the deficit will continue skyrocketing.

The debt will be doubled in 10 years. America will have little chance to grow and prosper. We will be relegating to our children, instead of a growing standard of living, constant, consistent recessions, no growth, and I have never had anyone write me a letter suggesting they want recession, because they know they are bad.

Second, this can be done without hurting anyone. If the committees of the Congress, in the 2 years provided, want to take a look at these programs, look at the suggestions, from means testing some to actually providing different ways of doing things, we can easily get it under control.

How much time have I used in these opening remarks?

The PRESIDING OFFICER. The Senator has used 35 minutes.

Mr. DOMENICI. Mr. President, I yield the floor at this point.

Mr. SASSER. Mr. President, may I inquire of the distinguished ranking Member, is he prepared to lay down the substitute at this time?

Mr. DOMENICI. Mr. President, I have not had a chance to discuss this with the chairman. I will suggest the absence of a quorum.

Mr. SASSER. If the Senator will withhold, I yield 10 minutes to the distinguished Senator from Michigan, and we can discuss this.

Mr. RIEGLE. Mr. President, I thank the chairman.

Today's debate is perhaps the most important debate we will have had about the fraud and the failure of Reaganomics and supply-side economics. I listened to the Senator from New Mexico talking about the fact that there is no money in the U.S. Treasury. Why is there no money in the U.S. Treasury? What has happened to America, particularly since 1980, that has caused us to move up to these massive multibillion dollar deficits? Why are we in recession? Why do we have his massive unemployment in the country? Sixteen million people are either unemployed or working part time, because they cannot find full-time work.

It is because of the failure of the program of Reaganomics. That program came right off that side of the aisle, just like this proposal today is coming right off that side of the aisle. And what happened? The central theory of Reaganomics was this: Give huge tax cuts to the richest people in this country, and it would set off a supply-side miracle that would boost growth, bring great amounts of new jobs and money into the Government. But it was a total fraud and a sham. And, in fact, David Stockman, who was the Director of OMB at that time, has written in his book that they knew at the time that it was a fraud, and that it would cause these massive deficits; that you could not give these huge tax cuts to the wealthy in this country without creating huge structural deficits in the Federal budget.

So now all those years have passed. We have had Reaganomics trickle-down in place since 1980. Eight years of Reagan and Bush, and almost 3½ years of Bush and QUAYLE with the same policies, and the country is in deep, serious economic trouble. It is not just the issue of the Federal Government deficits which are massive. We have problems all through our system because of this crazy and selfish economic strategy that was foisted on the country a few years ago.

The people who are leading this charge today on the other side of the aisle were the people in charge here in the Senate during the early 1980's, when this fraudulent economic strategy and program was put in place.

The reason that the Treasury is empty is that the tax cuts to the wealthy were too large, and the people sponsoring this amendment are in here today protecting those huge tax cuts still going to the wealthiest people in our country. And those tax rates on the wealthiest should go up so they start paying their fair share so we can bring down this deficit.

But, what they are doing, they are protecting those tax cuts for the wealthy. That is what this is all about. And the only way they can do it now is to go in and start strip mining the programs that we have in place for the elderly, for our veterans, for the people in our society who are in the worst circumstances and who need help. So they are in here today to chisel away at those programs, cut those programs down, so they can protect these outrageously large tax cuts to the wealthy, which were put in place in the 1980's. The wealthy of this country, who are defending this proposal, are not willing to put one dime back in for the public good. The whole creed of selfishness and class privilege is in the

saddle today. It is in this administration, and it is embedded right in the heart of this proposal that is being offered and put forward by the Senator from New Mexico.

This plan is going to end up having the effect of cutting the Medicare benefits of people all over this country. Who gets Medicare benefits? The people who principally rely on them are not the wealthy. No. If the wealthy get sick, at any age, and they need specialists, the best doctors, best hospitals, best medicines, they can afford to get them, and they go get them. It is the people who do not have great wealth who have to rely on Medicare.

In our system today, doctors in our system are not required even to service Medicare patients, and more and more in our country, doctors are refusing to serve Medicare patients. Why? Because the reimbursement rates for the health care given to somebody on Medicare and elderly persons in America are so low that many doctors are saying, "I do not want to be bothered with that problem. Let them go to some other doctor."

To the wealthy, it does not mean anything, because they have protection and they have protection, in part, because they got the fat tax cuts from the same people that are bringing you this proposal today.

It is outrageous. If we had a national health care plan in place, if the Bush administration would come forward with a national health care plan that guaranteed access to health care and control of health care costs, that would be one thing. There is no Bush plan. There is no Bush plan. This crowd has been around now for 11 years. Has anybody seen the plan? Is the plan here in the Chamber today? Of course, it is not, because they have not offered one. We have offered one, I might say, on this side of the aisle. Here it is, S. 1227, offered by Senator MITCHELL, myself, Senator KENNEDY, and Senator ROCKEFELLER, cosponsored by others. This provides health care to people in this country and cost control to go along with it. There is no desire to do that on the other side of the aisle, and there is no plan. So now they are in here trying to chisel down what is left of the programs that help the people in the country who have to rely on the kind of help. So they want to chisel down the Medicare benefits and Medicaid benefits. Why? It is because they are protecting the wealthy people, who are unwilling to pay their fair share of the tax. That is what this is all about. And it is shameful, it is a sham, and it is hypocrisy.

The human needs of this country have to be met one way or the other. We cannot walk away from them. They are in there today to chisel down the veterans benefits. That is another outrage. A year ago, we were giving parades to the veterans of Desert Storm for their heroic work over in that part of the world in that war. Today, many of them are unemployed and, in fact, homeless. There was a story on national television the other day about some Desert Storm veterans who are living in cardboard boxes here in America, because they cannot find work and do not have a penny to their name. Is there a program coming in here today from the other side of the aisle to do something about that? Of course not. They have washed their hands of that problem, and they want to wash their hands of the problem of trying to make sure that the elderly people in this country that have to rely on Medicare are able to get the care they need. And it is expensive care. It is going to stay expensive until we pass a national health care program. Is there a plan being offered? Of course, there is not.

More sophistry.

Mr. DOMENICI. A plan to do what?

Mr. RIEGLE. I do not yield at this time, Mr. President. I listened to 35 minutes of that nonsense just a minute ago, this special privilege pleading that is going on. I am sick and tired of seeing the wealthiest people of this country protected from carrying their fair share of the responsibility of the needs of this country. The tax cuts that Senators on that side of the aisle foisted on this country for the wealthiest people in this country have damaged America.

They have hurt this country. You wonder why there are not enough jobs, not enough investment. The reason we went on a real estate binge, the cost of the finest paintings, big yachts, all off the chart, is all the money was going up to the top of the income scale. Even the Federal Reserve put out a report on it, how outrageous the imbalance of resources is in this country.

That is what this is all about. This amendment says protect the wealthy in America from paying their fair share of taxes. They made off with a bundle in the 1980's with a lot of protections and they do not want to give one penny of it back. Now that the Government is broke, they want to come back and strip mine the programs that are left.

I want to mention one more time the SSI benefits. Who would they go to in our society? This would be one of the programs cut under the amendment. You know who gets the SSI benefits—the elderly people in this country who are blind and disabled. And they need the help and they deserve the help. They helped build this country. But the crowd that is bringing this forward, and it is coming off that side of the aisle, has no more concern about those problems than the man in the moon. They are not interested in it. They could not possibly be, to come in here and recommend those kinds of cuts in those kinds of programs.

It would be one thing if they were bringing a health-care program along with it. There is no health-care program that has been offered. It is a bad joke. I am tired of it. I am tired of seeing the defense of wealthy privilege in this country and that elitist attitude in this country. The people of this country are sick to death of it and they want a change.

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

Mr. SARBANES. Mr. President, will the Senator yield me 10 minutes?

Mr. SASSER. I yield 10 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Michigan and before the very able chairman of the Banking Committee leaves the floor I want to thank him for his very strong and powerful statement. I just want to add a couple of visual presentations to support the point he made about the tremendous shift of income to the wealthy people in this country as a consequence of the tax policy of the 1980's.

The Senator is absolutely right. What is this amendment doing? You are talking about reductions in guaranteed student loan programs which give people the opportunity to get an education, so they can contribute to the economy, so they can be positive members of the economic system; you are talking about Medicare, medical care for the aged for our senior citizens; you are talking about Medicaid, medical care for people who cannot afford it in any other way; you are talking about the retirement system; you are talking about child nutrition; you are talking about supplementary security income which as the Senator pointed out is to help the blind and disabled; you are talking about veteran compensation.

Now they have excluded Social Security from this amendment, although that is a mandatory program, and the same rationale that holds for Social Security, holds for a lot of these other programs.

The Senator is absolutely right. They want to impose a mechanical cap. We are not told what specific programs are going to be cut. This cap, as I understand it, would save $40 billion in 1997. The Exon amendment that was turned down yesterday, which was a very specific proposal for additional defense savings, and the tax package which increased taxes on the wealthy that was in the bill brought out by the Finance Committee, together would save more than the money that is projected in this proposal in 1997.

Mr. SASSER. Will the distinguished Senator yield on that particular point?

Mr. SARBANES. Certainly.

Mr. SASSER. Is the distinguished chairman of the Joint Economic Committee telling us that if we had enacted the very modest cut in military spending yesterday that was narrowly rejected by this body, and that if the

President had not vetoed the tax on the wealthy and the millionaire's tax in the tax bill that passed this body, that these two measures, the slight reduction in military spending and the taxes on the wealthiest, would have saved more money, reduced the deficit more than this effort to strip mine Medicare, as my friend from Michigan has said?

Mr. SARBANES. In the year 1997, as I understand the figures, the Senator is correct.

Mr. SASSER. I thank the Senator.

Mr. SARBANES. Now the Senator from Michigan makes the point that there has been a tremendous shift of income in this country to the very wealthy and that this proposal is really an indirect way to try to preserve that. That is what this whole fight is about. That is what happened on the tax bill. The President vetoed the tax bill which had incentives on the investment side and a tax cut for middle-income people, in order that the top 1 percent of the country ought not to pay higher taxes.

Mr. President, this chart shows a share of family income of the top 5 percent of the country. Look what happened to it over the 1980's. The share of income of the top 5 percent in the country increased dramatically over the 1980's. This is exactly what the Senator from Michigan was talking about. The share of the top 20 percent also went up during that period of time.

But now look at what happened to the people in the middle during that period of time. Their share of family income went down during the 1980's, and the share of the people at the bottom also went down. They get just over 4 percent of the family income. That is, 20 percent of the families, the bottom 20 percent, get 4 percent of the family income. The top 20 percent get 44 percent of the family income. The top 20 percent get 44 percent, the bottom 20 percent get 4½ percent.

Mr. President, this chart provides a more graphic example of how income distribution has changed throughout the 1980's. The top 1 percent are the people on whom we tried to place an additional tax burden in the tax bill.

Now their average income since 1977 has risen from $315,000 to $560,000. Their pretax income has gone up 78 percent over the 1980's. Their taxes went up from $112,000 to $150,000. The point is always made on the other side that the rich are paying more taxes. Of course they are paying more taxes, they have a lot more income. They are not paying taxes commensurate with the increase in their income.

The logical extension of this is you have someone who says I pay all the taxes. You ask why do you pay all the taxes? He says I pay all the taxes because I have all the income. Of course, if you have all the income you are going to pay all the tax. This is the direction in which we have been moving in this country. So the taxes of the top 1 percent went up to $150,000, but their average income jumped up to $560,000. So their average after-tax income went from $203,000 to over $410,000.

Let me put it in percentage terms. Their pretax income went up 78 percent. Their taxes went up 34 percent which is not even half of what there income rose.

This is what the tax cuts of the 1980's did for the very wealthy in this country. Their after-tax income went up 102 percent, so they pay a little more taxes, but they have this huge jump in income, and because of the changes in the Tax Code their after-tax income doubled for the top 1 percent in the country.

Now, we have a proposal to mechanically cut a long list of programs. It is not specific which ones. But many of these programs are designed to help the least fortunate in our society, others are designed to meet some of the most pressing needs in our society, medical care, health care for our older citizens, health care for people who cannot afford it, student loans so people can go to college.

Then the Senator says, "How are you going to close this deficit." They are projecting 2 percent growth. That is a pretty dismal performance. That is the problem with the Bush growth plan. There has been less growth in this administration than in any other administration in a postwar period. Bush is the worst on that score.

You talk about defense cuts. My understanding is that the defense figure 5 years out under this proposal will be $275 billion. It is $290 billion now. It is $290 billion now and the figure 5 years out will be $275 billion. That is a peace dividend? That is an adjustment in the defense budget to reflect what has taken place internationally? Who is kidding whom?

And third, if you did something to get these people in the top 1 percent, to carry their fair share of the tax burden, you would not have to come in here and strip mine these programs and obliterate these people who are in desperate situations.

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

Mr. SASSER. I yield an additional minute to the Senator.

Mr. RIEGLE. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. RIEGLE. Could the Senator hold up the chart on the income?

I think what he has illustrated here is this huge increase in aftertax income to the wealthiest 1 percent in our country, they do not want to give any of this back and to avoid giving it back, they now want to see a cut made in Medicare. In other words, they want somebody on Medicare, an elderly person in this country who is sick and who needs care, to go without the care so they can keep that big fat tax increase.

That is what is going on here, and it is outrageous. If you were coming in here with any kind of fair tax plan at this time, there might be some plausability to what you are talking about. You are taking it right out of the hide of sick, older people in this country, and it is just outrageous.

Mr. SARBANES. Let me show you what they are protecting. This is the Federal tax burden, 1977 compared with 1992. Federal taxes as a share of present tax income. Now the path line in 1977 for taxes as a share of income rose in this fashion. So there was some progression in the income tax.

Now look what has happened because of the 1980 tax changes, which were pushed so hard by the other side of the aisle. You have progression in the path line from $10,000 to not quite $100,000 and then look what happens to it. It levels right out. Above $100,000 there is no longer any progression in the tax burden as there was in 1977. Who benefits from that compared with the old system? These millionaires.

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

Mr. SASSER. I yield 1 minute to the Senator.

Mr. SARBANES. These are millionaires, people that have incomes of a million or a half-a-million dollars a year, and they do not want to contribute anything to solve this economic problem.

The proposal says we are going to solve the deficit problem because we are going to come down on Medicaid, Medicare, student loans, child nutrition, and supplemental security income. That is the proposal.

Then we are told, it is not going to do anything this year; not going to do anything next year. Why do we not deal with the specifies?

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

Mr. SASSER. I yield an additional 2 minutes to the Senator.

Mr. SARBANES. We had two proposals on the floor of the Senate in the past 2 weeks which would have contributed more to the deficit reduction than this proposal would in 1997.

Mr. President, there is a problem in dealing with the deficit, but the Senator from Michigan is absolutely right. You have to have a package that makes sense. You have to look at what the growth of the economy is going to be. You have to look at your defense figures.

As I understand it, this proposal has a defense figure 5 years out of $275 billion and the current defense figure is $290 billion. Now they talk about how much they are saving on defense by cumulating it over the 5-year period. But the fact remains that in the fifth year, the defense figure is going to be $275 billion as opposed to a current figure of $290 billion. There is no reference whatever to trying to meet the budget defi-

cit problems by addressing the inequality in incomes.

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

Mr. SASSER. I thank the Senator from Maryland.

Mr. President, I might ask is the distinguished Senator from New Mexico prepared to lay down his amendment now?

Mr. DOMENICI. No, I am not.

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

Mr. DOMENICI. Mr. President, I have heard the use of the word outrageous. Well, there is outrageousness around in abundance this morning.

Can you imagine when somebody proposes on the floor of the Senate that 450 billion dollars' worth of mandatory expenditures increase $110 billion in 5 years—that is the proposal, increase $110 billion—we have people outrageously saying we are cutting.

The other thing I hear is the $450 billion that we are going to be in debt 5 years from now can be made up by taxing the rich. You could take the entire fortune away from all the rich, everything, and you will not get $450 billion. The truth of the matter is we are overcommitted.

Then you hear it said that we are going to take money away from those who are on AFDC, those who are getting some kind of assistance because they are poor. Mr. President, we offer an idea that says, look at all of those proposals and in the next 2 years figure out a way to take care of those in need and do not let the expenditures grow more than a certain amount. Every new person, new case, that is added, inflation on top of it, and 2 percent more. If that is cutting, I do not understand.

Does anybody believe that if Congress looks at this package that they are going to cut the programs they are describing here? The AFDC Program is not even using the formula amount. It is less than that much growth. We have to ask that some group of Senators that have authority to make changes look at this package and reduce it in a reasonable manner.

And it has nothing to do with the wealthy of America. In fact if you put that wealth chart up, one might ask the question among those wealthy people, why do they all get free Medicare even after they have received all of the money they put in? Should not somebody look at that when we are this much in debt? Should not somebody look at that for a $100,000-a-year income person that maybe when they have gotten all their Medicare expenditures that they put in the trust fund, when they got it back, maybe we ought to look at whether they ought to get everything free or not, when in fact our children are not going to have any jobs.

Now they are talking about economics and Bush as if Presidents wave wands and cause economic growth to occur. We do not have economic growth occurring because we have sustained deficits that are beyond the capability of this economy to assimilate and grow.

We come here talking about the future and we are hearing about the past. Now if we want a debate on what happened in the decade of the 1980's, with reference to who got what and who did not, we would be glad to have that. But the point is we cannot pay for what we have. We cannot pay for what we committed.

And it has nothing to do with hurting anyone. We are asking the Congress to take a look at those programs and see if they cannot find a way to reform some of them, taking care of people in a different way. And I add, does anybody think we are not going to have reform in the health care system?

Does anybody think that is not going to occur in the next couple of years? Of course, it is. We are suggesting that reform is cost containment also. And we are asking that during that 2 years there be a target so that cost containment will be given a real boost.

Is anyone suggesting we cannot take care of the health care problems of our seniors under the amount of moneys that will be allowed here and cause the trust fund to last much longer? I do not believe that. Having said that——

Mr. CRAIG. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield 5 minutes to the Senator.

The PRESIDING OFFICER. Five minutes is yielded to the Senator from Idaho.

Mr. SASSER. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator from New Mexico yield for a parliamentary inquiry?

Mr. DOMENICI. I will be pleased to yield.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, what is the regular order?

The PRESIDING OFFICER. The regular order under the previous order of the Senate is for the Senator from New Mexico to offer an amendment.

Mr. SASSER. Mr. President, let me just say a word to my friend from New Mexico. I do not want to discommode him but it is now 11 o'clock. We came in at 9 to take up his amendment. We have Senators all over here waiting, trying to catch airplanes. We have eight more amendments, I think, to dispose of.

Mr. DOMENICI. I am ready.

Mr. SASSER. I would urge my friend from New Mexico to lay down his amendment, and let us proceed on that if he intends to lay it down.

Mr. DOMENICI. Mr. President, I will do that.

I ask unanimous consent when I submit this substitute amendment that I have the right to withdraw it if I desire.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1777

(Purpose: Setting forth the congressional budget for the U.S. Government for fiscal years 1993, 1994, 1995, 1996, and 1997)

Mr. DOMENICI. Mr. President, I send to the desk a substitute amendment for myself, Senator NUNN—I know it has been spoken of as if it is all on this side of the aisle. I understand we have two cosponsors from that side of the aisle, I might add—Senator NUNN, Senator RUDMAN, Senator ROBB.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. NUNN, Mr. RUDMAN, Mr. ROBB, and Mr. SYMMS, proposes an amendment numbered 1777.

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. DOMENICI. Mr. President, I understand the Senator from Idaho wants 5 minutes. I yield 5 minutes off of the amendment.

Mr. CRAIG. I thank my colleague from New Mexico for yielding.

I want to immediately associate myself with his remarks and the amendment that he has just sent to the desk, an amendment to Senate Concurrent Resolution 106.

Mr. President, I would like to begin by commending the distinguished Senator from New Mexico, the ranking member of the Budget Committee, for his consistent leadership and his attention to the nuts and bolts of what is necessary to reduce the Federal deficit. He has been, I believe, unrivaled in his willingness to toil at that task.

I strongly support the substitute Senator DOMENICI has offered. It is the only realistic approach at this time to deficit control.

It is my understanding, and I look to the Senator for confirmation or clarification, that the 1990 budget agreement, or budget summit, caps what we call all discretionary spending through fiscal year 1995, but does not cap levels of spending on entitlement, or mandatory, programs.

Mr. DOMENICI. The Senator from Idaho is correct.

Mr. CRAIG. We use terms like discretionary versus mandatory. But is it not true that discretionary really only refers to spending that will not take place unless the Congress acts through the appropriations process every year? And that mandatory does not mean, for the most part, that we must spend on certain programs, but rather that cur-

rent law puts the funding of those programs on autopilot.

Mr. DOMENICI. The Senator has characterized that distinction correctly. Mandatory spending does include fulfillment of some prior, binding obligations that have been entered into but, for the most part, we are taking about entitlement programs in which we simply have to change the law to make any change in those spending patterns.

Mr. CRAIG. So, it would be fair and accurate to say that, mandatory is a term of art and that, realistically, all Federal spending, except servicing the national debt, is discretionary over the long run, and most of it is actually discretionary in the short run, as well. The practical distinction is one of different funding mechanics for different programs.

Mr. DOMENICI. That is essentially right.

Mr. CRAIG. Now, for fiscal year 1993, even if the final defense spending number that comes out of conference were to be the Budget Committee-approved number, which is supported by the distinguished chairman of the Armed Services Committee and was essentially the amount requested by the President, that level of spending still would be about $8 billion below the budget summit cap. Is that correct?

Mr. DOMENICI. The Senator is correct.

Mr. CRAIG. I also understand that, in the committee-reported budget resolution, outlays for domestic discretionary spending exactly meet the cap. And also in the substitute prepared by the ranking member, I believe that overall outlays for domestic discretionary spending exactly meet the cap.

Mr. DOMENICI. Yes, the Senator is right on both counts.

Mr. CRAIG. Now, this is curious. Defense spending has been declining in real terms for the last few years, and will decline in real and nominal terms for the foreseeable future, under everyone's projections.

In terms of constant dollars, spending on domestic discretionary programs has remained virtually unchanged since the last Carter budget in 1981, and declined slightly as a share of gross domestic product.

Only in the area of entitlement and mandatory programs have we seen dramatic growth both in inflation-adjusted terms and as a share of GDP. And that trend is expected to continue—and escalate—for as far into the future as anyone's crystal ball will permit us to see.

I ask unanimous consent the table be printed in the RECORD.

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

ENTITLEMENT AND MANDATORY OUTLAYS

[Dollar amounts in billions]

Fiscal years	Current dollars	Constant (FY 1987 dollars)	Percent of GDP
1962	$32.3	$132.6	5.8
1981 (last Carter budget)	$340.6	$435.7	11.5
1992	$709.9	$584.4	12.1
1992 change from 1962 (percent)	22/+2,100	4.4/+341	.....
1992 change from 1981 (percent)	2/+108	1.3/+34	.....
1997 CBO baseline projection	$977	$685	12.5
1997 change from 1992 (percent)	38	17	.....

Source: CBO's "Economic and Budget Outlook: Fiscal Year 1993–97," January 1992, except as follows: Constant dollar figures derived by using the composite deflator in the February 1992 supplement to the President's fiscal year 1993 budget; $709.9 in 1992 outlays cited in the Mar. 31, 1992, explanation of the SBC Republican budget resolution.

Mr. CRAIG. If these programs for which no statutory cap exists.

Mr. DOMENICI. The Senator from Idaho is absolutely correct. That is why, in my plan, I have been calling for restraint in non-Social Security mandatory programs that actually amount to a very modest level of restraint.

This is the one area of our budget which has been growing out of control and threatens to continue to do so unless we try to bring some fiscal discipline into these programs.

Mr. CRAIG. The Senator's budget proposal certainly has offered modest, but necessary restraint in this area. Let me be sure: In the substitute proposal, the Senator from New Mexico has been proposing to allow mandatory programs to grow for new beneficiaries at the rate of inflation plus an additional 2 percent in 1993, and phasing down that bonus adjustment out by 1997, so that, in 1997, these programs still grow by the rate of inflation. Is that correct?

Mr. DOMENICI. The Senator from Idaho is right. My plan would allow non-Social Security mandatory programs to continue increasing, but would slowly, in a phased way, create a fiscal incentive to find ways to economize.

Mr. CRAIG. I have already received a few apocalyptic calls and letters warning of the dire consequences of adopting the Senator's substitute. I cannot believe they really understand how it would work. A phased-in cap on mandatory growth would put the Congress and the administration on notice that it is time, among other things, to make the reforms in our health care system to bring skyrocketing costs under control. Everyone's budget benefits when that happens, not just the Federal Government's.

We are not saying, let us cut benefits or programs or services. We are saying, let us reevaluate what we are doing and who is benefiting, and see if we cannot accomplish our priorities more economically. Of every entitlement dollar, for example, we spend 80 percent on non-means-tested programs and only 20 percent on programs that were created to help the needy. In any case, spending would increase. We are only talking about how much of an increase should occur.

Frankly, I think the Senator's proposal is too modest. I have cosponsored Senator BURNS' legislation to cap all domestic spending growth—entitlement and discretionary, alike—at 4 percent. A number of outside groups and think tanks have proposed an overall 3 percent cap on growth. I would much prefer that level of restraint.

But I appreciate the efforts of the Senator from New Mexico to begin to move our thinking in that direction. It is long overdue and it is necessary.

I believe we may never get these deficits under control and alleviate the drag on the economy they cause until we enact a firm, constitutional mandate that we produce balanced budgets. It is my understanding that the majority leader has given the Judiciary Committee some assurance that the balanced budget amendment which that committee has reported by a strong 9–4 vote will be on this floor in the near future and I look forward to moving that process forward.

Mr. DOMENICI. I thank the Senator for his comments and his concern. I know that, when he was in the other body, the Senator was a leader in the movement to obtain a balanced budget amendment to the Constitution, and I look forward to our working together on this and other efforts on behalf of deficit reduction.

Mr. CRAIG. Mr. President, we cannot duck nor can we hide. Yet the rhetoric on the floor this morning would suggest the policies this Government currently operates under and this Congress responds to are on autopilot. I think we call them mandatory expenditures versus discretionary expenditures.

Let me tell you who controls the autopilot—100 Senators here on this floor. We are the pilots. We fly the aircraft of Government. We make the decisions on how much money will be spent, how many taxes will be levied, who will be taxed and who will not be taxed, how much of the wealth of this country will be redistributed and to whom and for what.

Let me tell you, as pilots of that aircraft, we cannot hide. It is on automatic pilot at this time and that automatic pilot is now flashing red, not because of anything that I might have done or anyone else, but by those on the ground, the American taxpayer, those responsible for the aircraft itself. They say it is in danger of a crash.

It is because there has been a sense of irresponsibility here for too many years to not look at the hard issues, to not recognize what has to be done and then to do so in a reasonable and responsible fashion. Not that the door gets slammed quickly or the aircraft gets slammed to the ground and its landing gears get knocked out from under it, but that it be allowed to land in a controlled fashion.

That is what I believe my colleague from New Mexico, in his substitute, has offered—that the pilots of the auto-

pilot, if you will, those who really are in control, this Government, this Congress, this Senate grab hold of those controls and bring it in for a safe landing for everyone. That is the fundamental issue we are all talking about this morning. There is really no room for exaggeration.

A cut is not a reduction of an increase. A cut is a reduction in current levels of expenditure. I know the American people believe that, but nobody here on this floor is willing to admit it. That is what we are talking about this morning—at some time in the future, this Congress beginning to reduce the rate of increase in the mandatory expenditures so we can begin to reduce the deficit so we can go home and say to the young people of this country we are beginning to reduce the burden on you, so at some time, when you are out there at 35 or 40 or 45 years of age, you will not be asked to pay 65 or 70 percent of your gross pay back to Government to pay for the debt that was created by your forefathers.

We have not said that yet. We have not taken that step. We have not been that responsible.

The 1990 budget agreement was touted as the great compromise that began that slow path of reducing the deficit. Now the record speaks for itself, and I do not believe the American people believe for one moment that past rhetoric because the proof is on the table. The figures have been printed.

The fact is it did not work because nobody had the strength to begin to reduce, by law, those mandatory autopilot expenditures that everybody here today, except too few, suggest cannot be touched for whatever reason or another.

I suggest they can. I think my colleague from New Mexico, in a most responsible way, said to this Congress let us at least look at it. Let us at least send it back to the Budget Committee in the beginning of the next cycle in a responsible way and take a look at it. That is what he is saying.

I think that is fair, and I think the American people will agree with us because there is a message, and it is loud and it is clear. They are saying we ought to do something. I think we should. Action on this substitute would in fact be responding to the American people's call.

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

Mr. DOMENICI. How much time does the Senator seek?

Mr. RUDMAN. I need 10, 15 minutes, whatever the Senator has.

Mr. DOMENICI. I will use 30 seconds of my time first and then yield to him.

I am wondering how the Senators, either standing on the floor or in their seats, on the other side, how they voted on the alleged "help the rich get richer and poor get poorer" tax cut amendment. Unless my eyes are wrong—and I could be corrected—it seems to me Senators SASSER, SARBANES, and RIEGLE voted for that cut.

Mr. RIEGLE. Will the Senator yield to make that record accurate?

Mr. DOMENICI. If I said something inaccurate, I would.

Mr. RIEGLE. The Senator left something out that creates a misimpression. This was an alternative offered on the floor to change those tax rates to beef up the rates at the high end and cut them at the lower end and the vote on final passage included tax cuts to spur investment and business in this country and that ought not to be left out.

I thank the Senator for yielding.

Mr. DOMENICI. I am pleased to have it corrected.

Mr. RUDMAN. I thank my friend and the Chair.

Mr. President, I think it remarkable, listening to the debate this morning, that somehow there are Members of this body who think the American people are going to fall for the argument that this is a rich versus poor discussion.

In the press conference that Senators DOMENICI, NUNN, ROBB, and I held yesterday, I believe that each of us said uniformly that if we are going to get this budget under control, the first thing we ought to do is what every economist in America—every fiscal expert in America has said to us—and that is take this uncontrollable part of this budget and at least subject it to annual review. Find a way to slow its growth which is way above inflation. And then, if there is insufficient revenue, each of the four cosponsors of this legislation said, at that point, anyone should listen to the reasonable argument of increasing taxes in some segment of this population.

But the fact is that with deficits running at $400 billion a year, and according to the best projections, approaching $700 or $800 billion at the end of this century, and with the tax bite from the American people by 1993 about what it was back in the Carter administration, increased taxes alone will never solve this problem. In fact, if you adopted literally confiscatory tax rates on everybody in this country who earned more than $100,000 a year, you would still have escalating deficits.

The facts are these: That for a long time we have been involved in a game of political chicken in this Chamber, and we are going to see it again today. We are going to be required to cast votes as to whether we should exempt veterans and Medicare recipients and Medicaid recipients. And then those artful consultants and pollsters and media strategists, who frankly, in my view have polluted the American political system, will craft wonderful ads which will indicate that anyone who did not vote the right way somehow is against veterans, against the elderly, and against the poor.

Mr. President, I think some people around here are not listening. They are surely not reading my mail. I am looking forward to those votes, because I think there is a very unique way to tell the American people what those votes are really going to mean. To quote my friend, Paul Tsongas from Massachusetts, they will distinguish who in this body wishes to pander to special interest groups and who wishes to level with the American people.

With a country whose deficit is approaching the three-quarters of a billion mark within the terms of many Members on this floor, how can this body refuse to adopt this modest proposal?

What does this proposal do? It does not cut anything. It simply says that 2 years from now this Congress will be faced with caps on the major entitlement programs. Those caps will not be caps in a traditional sense. They will be current services, plus inflation, plus new eligibility.

We are going to say to the Senate Finance Committee and to the other committees that during that time we must find the ways and means to control the unabated growth of these programs. In the meantime, we are freezing discretionary spending, further cutting defense, and taking that defense money and putting it into very closely targeted programs, with which most of us in this Chamber, including the other side of this aisle, agree.

However, what we will be accused to today, before this day is over, is somehow favoring the rich, wanting to hurt the poor, wanting to hurt veterans, and further evolve this country into a class-warfare consciousness.

Mr. President, I do not think that is fair. I do not think it is reasonable. I do not think it is honest. Let us look down the road about 6 or 7 years if this is not done. The deficit of the United States will be somewhere around three quarters of a trillion for 1 year—1 year. The debt of the country will be approximately the same as 1 year's gross national product.

When Third World countries achieve those kinds of statistics, the World Bank comes in and says: If you want to borrow more money, we are going to set down the terms and conditions for you to borrow that money.

Mr. President, we are not that far away. We are 4 or 5 years away from that happening here.

What is it that Senators NUNN, DOMENICI, ROBB, and others, and I, are proposing? We are simply saying let us set up a system to review these entitlements on an annual basis, starting 2 years from today. I would ask the opponents of this amendment to cite one economist in America, liberal or conservative, Democrat or Republican, academic or working economist, who will disagree that the single and fundamental problem facing America is

the unabated growth of entitlement programs, period.

If there are those who think that the rich should pay more taxes, they might find some agreement on this side of the aisle. They will find very little agreement to simply doing that and doing nothing else, because that money will be consumed in the blink of an eyelash. There is not enough wealth in this country amongst the rich to hold back the growth of these entitlement programs.

It is kind of interesting. Back in 1985, we passed Gramm-Rudman-Hollings. It was overwhelmingly passed by both Houses of Congress and supported by Democrats and Republicans alike. There was a lot of gloom and doom about what that would do. But what it did was to literally take the unabated growth at that time of both defense and nondefense discretionary spending and freeze it in its tracks. It has now grown, basically, I believe—my friend from New Mexico will correct me if I am wrong—at the rate of inflation, roughly at the rate of inflation.

Nothing has been hurt, that I have seen. Oh, we would like more for education, and we would like more for health, and we would like more for research, but of course, the reason we do not have it is because the Federal budget is being consumed by the entitlement programs, many of which are going to middle-class Americans who can afford to pay more of their fair share, and it is time we tell them so.

It is like the Purolator ad: Are we going to pay them now, or are we going to pay them later? But if we pay them later, it is going to be under circumstances where, frankly, I would not want to be in this Chamber or the other end of Pennsylvania Avenue when you have to tell the American people we are going to have to seriously cut back on entitlements, on Federal retirement, on civil service retirement, on military retirement, and cut back on veterans benefits, because we cannot borrow the money to support our profligacy. That is where we are headed.

Do not listen to me. Read any of the pieces in all of the popular media in the last 2 weeks, by columnists of all political stripes, on this very single issue. They have said to the U.S. Congress: Either address these entitlement programs or you are not serious about deficit reduction.

Mr. President, I do not know what the rest of this morning will bring, but I am afraid it is going to bring more rhetoric which is somehow going to say that those of us who are trying to do something responsible on both sides of this aisle somehow want to favor the rich and hurt the poor. That is bunk.

I expect we will have a vote that will deal with veterans, and the vote, I suppose, will be cast such that we should exempt veterans benefits from this proposal. I suppose those of us who vote no on that would be considered antiveteran.

Mr. President, I am a veteran. I saw the people disabled when they were disabled. I care as deeply about them as I care about anyone.

I do not believe a program designed to save the economic future of this country can be conceived of as "anti" anything. It is pro-American, it is for our children, it is for our grandchildren. And I hope we do not have a lot of careless rhetoric around here that seems to indicate that simply asking to review these entitlement programs, to let them grow at a normal rate, and to charge those committees of the Congress with the jurisdiction of finding ways to control these rising costs somehow is anything but the height of responsibility.

A month ago, the Senator from New Mexico and I sat down and we talked about this. In fact, it was about the time that I spoke on this floor about this very subject. The Senator from New Mexico said, "You know, I do not think we can probably do this. It is an election year. We will get all sorts of election year rhetoric, all sorts of votes that we will be put to, and all 30-second sound bites and commercials that will be designed to embarrass people politically." I said to him, "You know, PETE, you are probably right." But I sense something going on that many people may also be sensing. It was present in the Tsongas campaign. It is present in the ground swell of support for Mr. Perot, of Texas, that is getting all sorts of national attention. It is present in much of the conversations going on in this country on the radio talk shows. People really do not want to listen to class warfare, they do not want to listen to political bickering between Republicans and Democrats. They are tired of the President bashing the Congress and they are tired of the Congress bashing the President. They would like us to get together and set forth a rational plan to start studying this issue.

What we are talking about here today is an amendment, offered by the four of us, that does nothing for 2 years. It gives the Senate Finance Committee 2 years, under the leadership it has, to start coming up with ways and means to address the health care crisis and other crises that we face. If we do not do it now, I am not sure when we will.

I do not believe for a moment that if a new President is elected this fall, which is a possibility, that he will support such a program. I am not sure that people of my own party would be happy to support it in a second George Bush term because they would be looking at the 1996 elections. But I submit to this body that there is a responsible and decent way to approach this problem and to explain to the American people that what we are trying to do is fix our financial condition for the long term, not in the short term.

Mr. RIEGLE. Will the Senator yield at that point?

Mr. RUDMAN. I am pleased to yield.

Mr. RIEGLE. I thank the Senator for yielding.

I was interested in the point he made, apparently in the press conference yesterday that he participated in, that was the issue of growth, about whether or not there should be changes in the tax system. I take it that at least the Senator from New Hampshire indicated that he thought, as part of the overall solution, that that was an issue that did need attention. Am I correct?

Mr. RUDMAN. Let me state it accurately. My recollection is—as I can certainly speak for myself—I also believe I heard Senator NUNN, Senator ROBB, and Senator DOMENICI clearly. What we all said was the first thing we must do is take the obvious growth of this Federal budget, and find a way to control it. That is the first thing we ought to do. That is No. 1. We have 2 years to do that.

During that 2-year period, if we should find that we can not close the gap, then each of us will consider changes in the tax structure. Were I here, I would do that. But the time to do it is not now. If we do it now, we will, according to historical precedent, simply say, "Now we have raised taxes and we can let this continued program grow," and eventually we will eat up all the money. That is historically what happens.

Mr. RIEGLE. If I may say, I said prior to the time of his coming to the floor, if this concept were being offered in a large context where you were talking about changes in tax law, growth policy, I just say to the Senator, you can raise the same amount of tax revenue today that we are now raising and change whom you raise it from. There is a problem in that area. And in the bulk of these programs, the reductions that are being proposed here are not going to hit the people at the high-income levels in any degree we are talking about. They will exact a real price down the line for people who are in fairly tough economic circumstances. And, if you are going to come in with a plan of pain, I think there has to be fairness. You have to share the pain, and you have to apply it all the way around the equation. I asked if there was a component like that in here. There is no such component, as I understand it.

Mr. RUDMAN. Let me respond to my friend from Michigan with this statement: I disagree presumptively with your assumption. I disagree that people at the lower end of the income level will be hurt by what we are trying to do. That is precisely what we are not trying to do. When we talk about

means-tested programs, we are certainly not talking about people with no means.

Second, the people at the higher income scale virtually have no benefit in these programs, period. If you want them to pay more taxes, in some context that may be OK, but that will not solve the problem.

I wonder, I really seriously wonder, if we came to this floor with a resolution in a slightly different form that said that we would now not just do it by a sense-of-the-Senate resolution, but in fact we would put in here a component that would say we mandate the Senate Finance Committee to change the tax rates for all those with incomes over $150,000 and, in return for that, we will mandate a capping of entitlement programs today, would we get a majority on the other side? I ask that question.

Mr. SARBANES. Will the Senator yield on that point?

Mr. RIEGLE. That is not what is being proposed.

Mr. RUDMAN. I am entitled to an answer. I do not think I will get an answer because I know the answer.

Mr. RIEGLE. Let us have the proposal.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. RUDMAN. I yield to my friend from Maryland.

Mr. SARBANES. I thank the Senator. I appreciate his yielding.

As a matter of fact, he is about the only Senator on that side who has been willing to do that—I say that as an indication of respect for him.

Here is the problem that Senator RIEGLE has touched on. As we look out into the future, we have to be concerned about the deficit problem. The deficit comes from a number of sources. One is slow growth in the economy. If the economy grows at 3 percent rather than 2 percent, or 2 percent rather than 1 percent, that makes a very significant difference in your deficit problem. The deficit we are currently confronting has been added to significantly by the recession. The deficit we have been confronting has also been contributed to by the problems of the financial institutions, the payouts to the savings and loans and the banks. What the Senator is proposing sets a framework 2 years out. What he is proposing to do is to cap these various programs, and we ought to go down the list of what the programs are and appreciate how important they are to people's lives.

Senator RIEGLE's point, which I think is a very effective point, is that you are going to address the deficit by curtailing some benefits that are absolutely critical for some people—health care, supplementary security income, child nutrition—and for others, benefits that are essential to their opportunity and to the development of the society, like guaranteed student loans. There is no component in here for trying to address at least part of the deficit problem through recouping some of the enormous benefits in income that have flowed to the people at the top of the income scale as a result of the tax cut of the 1980's.

The PRESIDING OFFICER. The time yielded to the Senator from New Hampshire has expired.

Mr. RUDMAN. I ask my friend from New Mexico for additional time.

Mr. DOMENICI. I yield 10 minutes.

Mr. SARBANES. If we were taxing the top 1 percent of the country, which has 13 percent of the income, at the average rates of 1977, there would be an additional $40 billion in tax receipts from that source alone. That is not confiscatory, and that is just the top 1 percent of our population.

Then you have defense. As I understand your defense figures, 5 years from now we will be at $275 billion. We are at $290 billion today. Is that correct?

Mr. NUNN. If the Senator will yield, I do not know the exact number where we would be, but I can get that for you. We are proposing exactly almost what the chairman of the Armed Services Committee in the House proposed. We are proposing, over 5 years, only $15 billion less in cuts than the majority leader, Senator MITCHELL, proposed.

Mr. SARBANES. I understand that. We are trying to figure out how to address this deficit in the future and what the various sources are, which can make a contribution to deficit reduction.

Mr. SARBANES. The point I am making is that your own plan has a figure for defense, 5 years from now, of 275. The current figure is 290. I agree with the Senator that you are not going to be able to deal with the deficit from one source only. But this defense contribution, in my judgment, would be inadequate, and you are doing nothing on the tax side.

Mr. RUDMAN. Let me respond to my friend. Unless my friend from Georgia wants to clarify that.

Mr. NUNN. Just a response. The Senator's $275 billion is correct. The Senator should take note that this is lower than the defense number in the resolution at this point.

Mr. SARBANES. I understand that. We are projecting into the future and trying to find what are the sources that will help to address the deficit. You have a resolution now which essentially says that the source is going to be out of these programs. Your defense source is to go to 275. You have nothing in there on the tax side, and your growth assumptions are very meager and anemic.

They may be right, and they may not. But that is an important component of how you deal with the deficit. What you have done is put front and center only these programs, and the people who depend upon them. When we talk about them, we ought to name them by name. We ought to go through the programs to see their impact.

Mr. RUDMAN. We intend to.

Mr. SARBANES. And not the defense, not the tax, not the growth possibilities, all of which should and could and ought to be an important component of any deficit reduction strategy.

Mr. RUDMAN. I thank my friend. How much time do I have left?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. RUDMAN. I will use some of that. Let me respond to my friend from Michigan and my friend from Maryland. The Senator from Maryland made a very telling point, telling not for his argument, but for my argument. His telling point, is one that I think no one can disagree with.

The Senator stated that we could raise those rates back to their old rates, and we would get an additional $40 billion. I say, maybe we can raise them double that, and we could raise $80 billion.

The fact is that under all of the projections, that $80 billion will be sucked up by the growth of entitlement programs above population, above inflation, in about 3 years. Somehow I am missing something. I see the chairman of the Senate Finance Committee on the floor. That committee has enormous power. It has broad jurisdiction. What we are saying is simply this: Over 2 years, you and the other committees with concurrent jurisdiction should find ways and means—and certainly a health care reform package is part of it, a major part of it—to see how much of this growth above inflation and population we can control.

As a matter of fact, I do not know if the Senator from New Mexico quoted the statistic or not, but I believe the figure is that there will be $800 billion of entitlement growth over the next 5 years, of which roughly $347 billion is above and beyond what ought to be from population growth and from inflation; $347 billion.

Mr. SARBANES. If the Senator will yield for a question. When the Senator says "inflation," is he talking about the general rate of inflation?

Mr. RUDMAN. Yes. And, obviously, the medical rate of inflation is much higher.

Mr. SARBANES. The component of this package is health care. We all know that the health care rate of inflation has been substantially higher.

Mr. RUDMAN. Exactly. That is our point. We are simply saying——

Mr. SARBANES. Your are not holding people harmless by saying you are giving them inflation if you are giving them the general rate of inflation for health care costs, which have significantly exceeded the general rate of inflation.

Mr. RUDMAN. What we are saying is, in 2 years, the Senate Finance Committee, and other committees with concurrent jurisdiction, ought to report back to this body whether or not this target of baseline cost over the next 2 years, plus inflation at the general rate, plus a delta of 2 percent, plus new eligibility, is something we can live within. If we cannot, I have no doubt that that committee would recommend new revenue. And I voted for new revenue before, and would I be here again, I would vote for it again.

Mr. RUDMAN. But only if there was some effort to control costs. That is my underlying point. The Senator from Maryland said it better than I can say it. You can raise $40 billion, $50 billion, $80 billion in new taxes, and it disappears into a great black hole, unless effort is made to control the growth of these entitlements. That is all we are saying.

We are not saying do it today or next year. We are saying in 2 years from today, we ought to have a plan before us to see whether or not the cap works. The Senator from Massachusetts [Mr. KENNEDY], has a health plan that is very interesting. The Senator from Kansas [Mrs. KASSEBAUM] has an extraordinarily interesting plan. Somehow, some way, we ought to be able to do something in this body in 2 years.

Is that asking too much?

Mr. RIEGLE. If the Senator will yield, I do not think it is. I think we can do something this year. We have these plans. Here is a health care plan, here. I mean, this issue ought to be dealt with. Unfortunately, we are not dealing with it.

I might just say, if the Senator will yield for another moment, the $40 billion that he speaks about of the amount of tax revenue that can be raised by having a fairer and, I think, larger tax on people in the high income levels, in effect to understand the hole we are now in, you have to back the train up and see what happened each year during the 1980's. The revenue loss year by year, in 1982, 1983, 1984, 1985, 1986, 1987, has been cumulative, and the money we have had to borrow and the interest we are paying on it, which is compounding, the hole we dug ourselves into, in part because of an absence of tax fariness and insufficient revenue coming into the Government, cannot be solved in 1 year.

The Senator is quite right. Nor can it be solved with one source. Nor should we think in those terms. But here is the problem now. When you lead with the chins of this crowd—to come back and look at these programs, and in fact, we have a letter from the head of the Paralyzed Veterans of America, and this is a man of conscience; he is representing the people that he represents. And he has concerns about these cuts and the others. The question is, why are we putting this cluster of programs and people on the front line now for the sacrifice, when we do not have the health care plan? In fact, we do not even have a proposal, quite frankly, from the administration. We do not have these other things ready to go, and we passed a tax plan, but it was vetoed, and there is no alternative. So what we are saying is that although we cannot get the whole plan together, let us take a group which includes a vast number of what I call "the walking wounded" and say: Look, we cannot get the other parts of it done. We do not even have a plan right now for doing the rest of it, but we are going to ask you to do your part.

Mr. RUDMAN. Mr. President, I am going to reclaim my time.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. DOMENICI. I yield 5 additional minutes to the Senator from New Hampshire.

Mr. RUDMAN. I will try not to use all of it. Let me just make a couple of observations. The Senator from Michigan is correct that we do not have a plan before us. That is precisely why this is a 2-year delay.

If we really were concerned about this, we ought to do something about it today. But we will not, for a whole variety of reasons. No one is speaking about cutting anybody. We are talking about a plan that will take entitlements, at their levels in 2 years, add inflation, population growth, and add 2 percent, and by that time, hopefully, these plans will have developed.

I happen to believe it will take a year or two for this Congress to finally agree on massive rehabilitation of whatever it is that is wrong with the health care system that causes its rate of inflation to be so much higher than general inflation. That is the first point.

The second point I want to make is—some statistics on taxes I agree with, and some I do not—the fact is that this Congress has done a pretty good job on both sides of the aisle of spending a good deal of money that we should not have spent. Unfortunately, that is not the problem. This year interest is the third largest item in the budget. It will be, I believe, the second largest item in 2 years. The chairman of the Appropriations Committee has been talking about how little is left for us to appropriate. As a matter of fact, I believe, but I do not have the figure in front of me, the total discretionary spending, nondefense was $210 billion to $215 billion this year, and interest is about $201 billion. Talk about a world being turned upside down. Something is wrong when the Appropriations Committee, with all of the legitimate needs of the country, gets squeezed out so badly that we have roughly the same amount of money to spend as we pay in interest.

Why? Not necessarily because of tax decreases. But largely because, if you look at the consumption of the normal growth each year, it is being largely consumed by growth in entitlement programs which nobody disagrees are needed by those people who receive them. All we are trying to say on this amendment is that there has to be a better way, and we have 2 years to find it.

On that note I would simply say that I am delighted this discussion is taking place this morning. It is the single most important discussion we have had to get this country back on track, to get the unemployed back to work, and to get real interest rates down. To protect the economic security of America we must deal with the deficit. Until and unless we deal with entitlements, we never will. I thank the Chair and yield back the time the Senator gave me.

Mr. SIMPSON. Mr. President, I rise in support of the amendment offered by my colleague from New Mexico, Senator DOMENICI, and I want to commend him for this courageous and farsighted proposal.

Mr. President, as we grapple with this divisive and painful issue of the Federal deficit, I call to mind something once said by Abraham Lincoln, in his "House Divided" speech.

> If we could first know where we are, and whither we are tending, we could then better judge what to do, and how to do it.

That is indeed what we should be about. I have listened to my colleagues as many of them have attempted to describe how we got here. Some have called attention to the increases in defense spending in the early part of the last decade. Some have cited tax legislation. Others have talked about runaway entitlement spending.

We will continue to have that debate, and it will be a good one. But it will not by itself answer the question of "where we are, and whither we are tending."

Where we are is in a sea of debt totaling nearly $4 trillion. And in a sea of frustration as well.

Every Member of this Congress is haunted by what will soon happen to this Nation's economy if we continue to practice business as usual. All of us, on both sides of the aisle, are tormented by our inability to get the deficit under control. Conscientious and committed Senators are voluntarily leaving this body in frustration over our inability to forestall what is coming.

Under the Constitution, Congress is granted the "power of the purse." Yet we feel powerless. Who until recently would have ever imagined that we could cut defense spending, freeze international spending, have only moderate increases in domestic spending, and yet see our annual deficit grow by tens of billions?

That brings me to the controversial entitlements cap provisions of this amendment. It is a frightening and troubling idea to everyone—even though it is not in any way a final commitment. Other legislation will be required to make it law.

First, just a quick word about what this amendment is and what it isn't. It doesn't affect Social Security; let everyone hear that. It doesn't enforce a sequester—in fact, it has no enforcement mechanism. It does not even require cuts—although in Washington we call any form of controlled spending growth a cut. This cap would allow entitlement spending to grow with inflation, with the number of recipients, and even with a margin of error—a cushion—above that.

I have heard it said that this amendment will not "solve any problems." Of course it won't—no budget resolution does. Here we are merely trying to take control of runaway spending; here is where we acknowledge the fact that we do not have unlimited funds to spend without regard for the Nation's future.

Mr. President, it is difficult to avoid hyperbole when talking about this problem. But it is that serious. We all know the unspoken and troubling truth—of what projected entitlement spending will do to the Federal deficit.

It is easy to dismiss the talk show hosts who howl about foreign aid and congressional salaries—we all understand that those are symbolic issues, and have a negligible impact on the deficit.

It is harder to stall the momentum of other ideas—that all we need to do is to cut defense. That all we need to do is to control pork-barrel spending. That all we need to do is to get the rich to pay their fair share.

Those are all important issues—I do not intend to criticize those who raise them.

But we all know we could slash defense by billions in excess of what the President proposed. We could squeeze dry all domestic discretionary spending. We could—and did, in 1990—pass various revenue-raising measures.

But we all know that unless we do this—unless we control entitlement spending—the deficit will continue to grow—uncontrollably.

I cannot look at the numbers which project our Nation's fiscal future without recoiling in horror. Unless we do something, our annual deficit will be $1.038 trillion in the year 2010.

I would say to my colleagues that this could well be an optimistic projection. This assumes that our economy doesn't buckle from sustaining a debt of that size. This assumes that there is no major crisis in an area like the banking industry. This assumes that we don't undertake major initiatives in education or child care. This assumes that we don't fight a war.

That is "whither we are tending" unless we take drastic action to reform the way we handle mandatory spending—the money we spend each year by formula, which isn't authorized, isn't appropriated, isn't prioritized, and often isn't meanstested.

Mr. President, I have constituents who come to my office every day to say—help us. Extend this tax credit. Continue this program.

Sometimes these constituents have their children with them. I look at these kids and I am disgusted and disheartened to think of what we are doing to them—ironically, in the name of "compassion" for our fellow man.

Where is our compassion for our children? And their children?

And it is so unnecessary. If our national entitlement programs simply grew in proportion to the number of recipients, with inflation taken into account, by the year 2010 we could actually be looking at $990 billion annual surplus.

Again, I think that is optimistic—I think there are variables at work that make it impossible to project that. But the point remains that the difference between that scenario and doing nothing—continuing down our current path—is about $2 trillion a year.

And $2 trillion difference in the deficit could easily be the difference between survival and economic collapse.

I ask my colleagues to remember: No matter what party you belong to, or what might be your policy priorities, we are all on the same side of this one. My conservative colleagues have nightmares about the tax burden which would imperil the American economy as it tries to meet those spending demands. My friends on the other side are equally concerned. A debt of that size would leave nothing for us to spend on the physical infrastructure—roads, water works, schools—that the distinguished President pro tempo has vividly shown to be so vital. That debt would leave nothing for the causes espoused by my colleague from Minnesota, who has spoken out so urgently for spending on education and health care for our children.

We all lose—every one of us—in that scenario.

I ask my colleagues to acknowledge with me—with the Senator from New Mexico—that we have no option. Either we control entitlement spending, or we destroy the chances of our descendants to lead a decent life. That is not, as my colleagues well know, an exaggeration.

And yet this is so difficult—because entitlement spending generally provides that which we believe all of our citizens are "entitled" to—either because it is a basic human right or because it has been promised to them. Health care, unemployment compensation, veterans' benefits, retirement income—the spending we truly hold most dear.

But I would say to my colleagues—this may be our last chance to do this fairly and humanely. The longer we wait, the more draconian the cuts will be when they eventually come; and they will come; there is no avoiding that.

If we can do this now, we at least stand a chance. We stand a chance that whatever limits on spending are imposed will only affect wealthy recipients of Federal aid, or will only force systemic reforms that would be desirable in any event.

Not all entitlement spending is the same. Certain categories of benefits—Social Security—Federal retirement—veterans benefits—do not grow significantly out of pace with inflation and with the number of recipients.

If we reform entitlement spending now, there is a chance that these programs will not be affected, because they are not the real problem.

If we wait a decade or two, that will not be the case. Then when it comes time for our children to collect their benefits, the Nation will say—we are sorry; we are bankrupt.

The distinguished majority leader has noted that an entitlements cap would affect Medicare and Medicaid, because that's where the increases are.

Medicaid increased 38.1 percent in this year alone. It is expected to increase 15.8 percent a year for the next 5 years. Medicare is expected to increase by 11.7 percent over the next 5 years. That has nothing to do with Reaganomics—that is a product of the uncontrolled way that we provide health care.

I share the majority leader's concern that an entitlement cap is going to mean a lot of attention to programs like this that are so completely out of control.

And I will agree with the majority leader—if we are going to control entitlement spending, that is going to force us to completely restructure the way we provide health care if we're going to meet the needs of those dependent on those programs.

But we cannot avoid this or any part of our responsibility. We have a responsibility to reform our health care system, and we have an equal responsibility to control Government spending so that our children have something to inherit other than poverty and despair.

I would suggest to my colleagues that it is not an expression of compassion to say that we can't afford to cap runaway entitlement spending. Senator RIEGLE of Michigan was down here today expressing his concern for the needy who depend on Medicare. It is precisely because of those needy that we must do something to get this under control. Four-fifths of entitlement spending is not means-tested. If we act soon, we can confine the hardships to those who would not qualify for this assistance solely on the basis of need.

But if we continue to delay—then there will be nothing left for the needy in a few years. Tax hikes, defense cuts, domestic spending cuts—none of that will save them, and we all know that. Every year of late, we have been squeezing the appropriations committees and watching the deficits soar nonetheless. We will have nothing left for the needy or the wealthy in 15 years—and there will be many more needy people by then if we do not change our ways.

That is what this amendment is about. Yes, we do have an obligation to our elderly, and to our veterans. But we also dishonor our veterans by destroying the country that they fought to save. There is still time to meet our obligation to these people, and to meet our obligation to our descendants. But that time is running out.

I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. The distinguished chairman of the Finance Committee has been waiting here for some time. I yield to him 10 minutes.

Mr. BENTSEN. Mr. President, I thank the Senator very much.

There is no question but that there is explosive growth in entitlements, that concern is shared by every Member of this Senate, and I understand that. But if you are talking about putting an aggregate cap on these programs, it really will not work. If you look at where the explosive growth has taken place, it is not in all of these programs but it is in Medicare and it is in Medicaid, CBO projects that over the next 10 years you will see a further increase of the percentage of the GDP that goes to Medicare and Medicaid from 3.4 to 5.9 percent, an increase of over 60 percent.

But let's take a look at the other entitlements and see what is happening there. CBO projects an actual reduction of 1 percent in the GDP for these programs and that includes Social Security. That is why an aggregate cap on entitlements just will not work.

The proposal before us is a procedural solution similar to what we did under Gramm-Rudman-Hollings, which I supported and I voted for. But let me remind my colleagues, that when we enacted GRH we had a $200 billion deficit, as I recall, and today it is something approaching $400 billion.

What we have to do is address the underlying problem that is driving the growth in entitlement spending. Let me state that in the Finance Committee we have in part. What we have done by cooperating with the administration, we have worked to enact the Medicare prospective payment system with its approximately 500 DRG's in 1983, and physician payment reform, 3 years ago. We legislated those changes in Medicare. In doing so, we put the Federal Government substantially ahead of the private sector when it comes to cost containment in health care. There is much more that is going to have to be done.

We are continuing to see explosive growth taking place in health care generally. Yet according to CBO, Medicare costs per capita are growing at a rate of 2 percent lower per year than they are in private insurance.

Take a look at what we have done in Medicare with respect to hospital stays. Hospital stays in this country today are the lowest of any major industrial nation. We have made some progress there through the Medicare payment system.

We are going to start hearings on May 6 and May 7 in the Finance Committee to further address the problems of cost containment for health care in this country, including Medicare and Medicaid. But when we move to contain costs, let us understand what is happening. Today over 60 percent of the hospitals in this country are losing money on Medicare. Fewer and fewer doctors want to see Medicare patients.

I am interested to note in looking at this list of 56 Senators who sponsor a piece of legislation, S. 1810, that would increase Medicare payments to physicians by $5.7 billion, amongst them sponsors of this resolution. S. 1810 was important to these Senators, I feel sure, because of the problem we are having particularly in some of the Southern and Western States of getting physicians to agree to see Medicare patients.

The CBO has found that the problem of growth in entitlements spending is really a manifestation of the rapid rise in the cost of medical care. Thus the abstract concept of an entitlement cap cannot be turned into reality without squarely addressing the underlying problem of health care cost.

Bob Reischauer, CBO Director, in testimony before the Finance Committee indicated that attacking health care costs through Medicare and Medicaid reductions alone is just not the answer to the problem. A cap on Medicare and Medicaid, is not the way to address the underlying problems of the health care system. What has to be done is not to impose an aggregate cap over all entitlements which differ dramatically in their rates of growth.

Reducing Medicare and Medicaid expenditures through entitlement caps will make the overall health care problem even more difficult by increasing the cost of private health care.

On May 6 we are going to start hearings at which we will listen to those who want to reform the health care system using the play or pay approach, those who want the single-payer approach, those who want a tax-based approach, like the administration, to make their case. There is no question in my mind but that we need a total reform of the health care system in this country to get costs under control.

When businesses like Ford Motor Co. have to dedicate 20 percent of their labor costs to health care their competitiveness in the international markets is put at risk. What is happening to small businesses and their employees is a tragedy, and that is one of the reasons that, along with 26 of my colleagues, I introduced and we passed through the Finance Committee S. 1872 which addresses some of the problems of job loss, affordability and red lining of companies in an effort to improve access to health care and to increase the affordability of care for the small employer. S. 1872 also includes an increase to 100 percent of the tax deduction of the health care premiums for the self-employed. So, once again, I believe that to attempt a procedural remedy for these kinds of deficit problems instead of getting to the root of the problem of escalation in health care costs, would be a serious mistake.

I think one of the reasons we are facing $400 billion deficits today is because we adopted a procedural solution to the deficit problem and ducked dealing with the real issue. And this entitlement cap suffers from the same defect, a procedural solution to cure the fundamental problems associated with the growth in entitlement costs.

What is needed is to address the real cause of the problem. In talking to an outstanding authority on this the other day, Dr. Altman, I was interested to hear that he attributes much of the problem of cost to overutilization of expensive and high technology in the treatment of patients. He pointed out that the growing numbers of uninsured persons is having a profound effect in the growth of private sector health care costs.

The other day I was at the dedication of Texas Children's Hospital. They told me they had $43 million last year of uncompensated health care. Who do you think pays for that? You pay for it, those of you with health insurance, those who have the money to go to the doctors and to the hospital.

So obviously we have to deal with a pervasive problem of cost by reforming the health care system to promote cost containment and more cost-effective delivery of health care services. We have the best hospitals, the best doctors, and the most sophisticated technology in the world. We have the best medical care available in this country to those who can afford it. But once again we have an extraordinary system for which all are paying a price. That price is an alarming rate of growth in the percentage of the GDP of our country dedicated to health care and it will not be corrected by imposing an arbitrary cap on entitlement programs. We have to get to the underlying problem and not be diverted by a procedural approach to it. I think that proposal we are debating is a diversion. I think that if approved, it will lull us into thinking

that we have dealt with the problem and gives us a false sense of security that more serious action can be avoided.

I would say to my colleagues on the issue of these hearings that start on May 6 and May 7—we will look at proposals for capping health care expenditures but I will tell you where the chairman is on that approach. I do not think that focusing only an entitlement programs gets to the underlying problem and I think we have to deal with cost containment itself on a more comprehensive basis.

When I listen to the head of OMB talking about health expenditures being from 13 to 14 percent of our GDP now going over 17 percent by the year 2000. I agree with Dick Darman that that is unsustainable. So what we are facing is the need to undertake a major reform of the health care system in this country. And the Finance Committee will be working to bring that about at the earliest possible time.

So, Mr. President, I understand the concern of the Members of both sides of this aisle over the escalation in the entitlement costs, but frankly I do not believe that this proposal will bring about the desired change. Putting an aggregate cap on entitlements makes no sense when there are substantial differences in growth rates of these various programs. Why put all entitlement programs at risk of a sequester when the real growth is occurring in health care programs?

We have to get to the underlying problem and we will address the Senator's concern as we try to bring about a comprehensive solution to the health care cost problem.

Mr. DOMENICI. Could I ask a question of the chairman?

Mr. BENTSEN. Yes.

Mr. DOMENICI. First, I want to thank him very much for his thoughtful remarks and for the statement he has made that clearly we have to do something about mandatory expenditures. I wonder if the proposal that we have before the Senate, if the Senator understands it as I do.

Would it be helpful, do you think, as you look at health reform, would it be helpful if the U.S. Congress deliberated and said that, looking at everything, we have—I am going to pick a number—$400 billion that we can expend and we say to the Finance Committee, would you tailor a national program so that we spend no more than $400 billion?

You see, I believe that the job of the Finance Committee, under the chairman's marvelous leadership, would be easier and would serve the public and the fiscal policy better if he knew in advance how much we could spend of tax dollars, because it is not hard to know that we cannot spend a trillion dollars a year on Medicare and Medicaid combined. It is easy to know that we cannot spend $700 billion, because you just add it up and the deficit will be out the roof. So at some point there is a number.

Actually I tailored this for 2 years. Some people wanted it to go in next year. It is 2 years before any real impact on the collective mandatory expenditures occurs during which time committees have hearings, chairmen like Senator BENTSEN look at various reform programs, start to assess how much we can afford and frankly I thought it would be helpful to be honest.

Mr. BENTSEN. I say to the Senator, I do not think an aggregate cap works because of the differences among growth rates in programs in the entitlement category. There is no question that our biggest cost escalation problem is in Medicaid and Medicare but that growth is attributable to the underlying increase in health care costs generally.

As we consider total reform of the health care system and its delivery, one of the issues we will discuss is an overall ceiling on the amount of money to be spent on health care in the country. But at the same time, I must say to the Senator that an aggregate cap like this that affects only public expenditures, I really do not think it solves the problem—in fact, it will increase costs to the private sector.

Mr. DOMENICI. I thank the chairman.

Might I just conclude by saying to him by way of a question, frankly, I did not think it would be easier to get a budget resolution through that had a spending ceiling if we only put that ceiling on Medicare and Medicaid. I thought people would be down here saying that is the wrong way to do it.

Mr. BENTSEN. Well, I would think that. I think what we have to address is the problem, and we have addressed some of it through reforms in Medicare and Medicaid and we have made some headway. We are substantially ahead of the private sector in cutting costs of hospital stays, for example. But to the extent that Medicare and Medicaid cut costs, hospitals, doctors, and other providers push over into the private sector the losses they experience because Medicare and Medicaid pay less than what it costs to treat these patients. In other words, you are seeing the shift of the cost burden and that adds to our problems by increasing the cost of private insurance and privately purchased care. In effect it is an extra tax that most people are paying to make up for the fact that Medicare and Medicaid pay a discounted rate.

The Finance Committee will soon be addressing the underlying problems. We will be talking about the comprehensive reform of the health care system.

I yield back the remainder of such time allocated to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 45 minutes and 44 seconds and the Senator from New Mexico has 20 minutes and 58 seconds.

Mr. SASSER. Mr. President, I yield 10 minutes to the distinguished Senator from Massachusetts.

(Mr. KOHL assumed the chair.)

Mr. KENNEDY. Mr. President, I strongly oppose the Domenici substitute amendment. It pretends to limit entitlement spending to reasonable levels—but it flunks any meaningful truth-in-advertising test. Stripped of its bureaucratic jargon and budgetary disguise, it is nothing more than a Trojan horse assault on older Americans and poor Americans who are sick and need health care. Opponents of Medicare and Medicaid do not dare slash those programs directly, so they are making this devious attempt to do it indirectly.

Let's look at the record on the many different entitlements covered by this amendment. Over the past decade, if Medicare and Medicaid are excluded, entitlement spending has actually been growing slower than the consumer price index. If we look at the impact of this amendment over the 4-year period 1994–97, Medicaid and Medicare will be $68 billion over the proposed cap—and all other entitlements will be $15 billion under the cap.

These figures make the bottom line painfully clear. If this substitute amendment passes, we will be in the position of either cutting $68 billion out of Medicare and Medicaid, or else unfairly slashing that amount from many other entitlement programs that are in no way responsible for the excessive growth in entitlement spending.

I urge the Senate to reject this kind of arbitrary cut. We are talking about harsh and unjustified reductions in school lunches and school breakfasts for hungry children; food stamps for needy families; student loans for college students; income assistance for the poorest senior citizens and those who are blind and disabled. This amendment asks us to cut each of those programs—all because hospital and medical costs are out of control. Will the Senate condone deep cuts in retirement benefits of veterans and civil servants—all because this nation has failed to enact a sensible national health care policy?

We shouldn't even take the Domenici meat-ax to Medicare and Medicaid themselves, even though they are the source of the entitlement problem. This amendment is the wrong remedy, because it makes the elderly and the poor bear the burden, instead of the hospitals and physicians and insurance

companies who are causing the entitlement spending crisis.

We know that hard-pressed States are already cutting back on Medicaid in terms of both eligibility and benefits. Thirty-six million Americans have no health insurance and the number is rising every year. Medicaid is a badly frayed safety net, but it is the only health protection available today to the poor and the uninsured. Surely, this is no time to cut back further. Even during the Reagan years, Congress rejected an equally harsh administration proposal to cap Medicaid. We should not make the same mistake today that we refused to make in the 1980's.

Deeper cuts in Medicare would be equally unjustified. Today, Medicare already pays hospitals 10-percent less than the cost of caring for elderly patients. The gap between Medicare payment levels and private payment levels continues to widen. In general, every dollar cut from Medicare means a dollar more in additional costs for average citizens and for business—because health care providers are quietly recouping what they do not get from Medicare by shifting costs to other patients.

Cuts in Medicare are not only a false economy—they are also hazardous to the health of senior citizens. As the gap grows between what private patients pay and what the Government pays for senior citizens, hospitals and doctors are beginning to view the elderly as second class citizens. Many physicians now refuse to accept additional Medicare patients. We enacted Medicare in the 1960's to stop this kind of cruelty, and we should not open the door to its return in the 1990's.

It is shameful that the poor and the uninsured are so often denied the services they need because they cannot pay. It will be doubly shameful if the same fate befalls senior citizens because the Federal Government fails to keep the promise of Medicare.

There is a better solution than the Domenici substitute. We know how to stop the skyrocketing growth in the cost of Medicare and Medicaid, and stop it fairly. It is a solution that is long overdue. We need comprehensive health care reform that meets two fundamental tests. It must guarantee basic health insurance for every American. And it must put in place a comprehensive program to control soaring health costs—not a program that simply slashes Federal health spending, while leaving the basic cause of the inflationary spiral in the current system unchanged.

I urge all Senators to join in working for this kind of fundamental reform, and to reject the non-solution proposed by the Domenici amendment. Without fundamental health care reform, an entitlement cap is not a true saving to the Government—it is an attack on the elderly, the poor, and the average American as well.

In addition, I join many other Senators in expressing my concern that this budget resolution, even without the Domenici amendment that would make it worse, is already unequal to the serious national challenges we face. The resolution we are considering does not provide adequate funding to revive economic growth, or make the long-term domestic investments needed to restore true prosperity.

Unfortunately, the shape of this resolution is dictated by our earlier failure to break down the walls between defense and domestic spending. I voted with the majority of the Senate in favor of removing the walls, and with the vast majority of Democrats for deeper cuts in Pentagon spending. But a Republican filibuster and lock-step Republican opposition has prevented us so far from altering the now-obsolete 1990 budget amendment. As a result, we cannot make sensible reductions in defense spending and use those reductions to pay for greater economic stimulus and needed domestic investment.

There is no question that deficit reduction is a necessary long-term goal. But reducing fiscal stimulus now, in the face of continued economic stagnation, makes no economic sense at all.

This economy is not out of the woods by any means. Last month's national unemployment rate of 7.3 percent is the highest rate since the recession began, the highest in 6 years. In Massachusetts, unemployment jumped to 9.1 percent last month, in a serious setback for our State economy.

Hope springs eternal. There are tentative signs of recovery today, but there were similar signs a year ago, and they turned out to be a mirage. Few experts believe, without a change in current policy, that any growth we achieve now will be robust enough to create significant numbers of new jobs. And without new jobs, this economy will continue to sputter along, and could well fall back into further recession.

This danger has been recognized by the vast majority of experts. Most recently, it has been stated publicly—in clear and unmistakable terms—by over 100 leading economists, including 6 Nobel Prize winners. Last week, those economists issued an open letter to the President, Congress, and the Federal Reserve, calling for lower interest rates, tax credits for business investment, and $50 billion in new assistance this year for hard-pressed State and local governments.

These economists recognize the short-term priority and the long-term problem facing the American economy. Their analysis concludes that it makes sense to use both fiscal and monetary policy to provide additional economic stimulus now, and to structure the fiscal part of that stimulus in a way that lets us begin to make the long-term investments we need in human resources, infrastructure, and productive business growth.

As their letter concludes: "The Nation cannot afford the economic waste and human distress of protracted high unemployment. We can put America back to work, and we can do it in ways that will enable our workers to be more and more productive in years to come."

That is the spirit which should be driving our efforts to enact this budget resolution and achieve a sensible economic program. The longer we delay, the deeper the hole we are digging for the economy and the more difficult it will be to restore growth and prosperity.

In January, I introduced legislation to provide such a stimulus. Other Senators, especially Senator SASSER and Senator SARBANES, have advocated similar actions. But our Republican colleagues are adamant against it.

The President and his advisers continue to look through rose-colored glasses. They refuse to modify their do-nothing policies that have resulted in the worst record of economic growth since World War II. Rigid ideology, not practical experience, is driving their decisions—and driving the economy into the ground. This lack of national leadership makes it impossible for Congress to do what is needed. We cannot do the job alone.

The only sound test of economic policy is whether it works. If the current policy does not work, try something else. Well, the current policy has not worked. It did not work for Herbert Hoover; it did not work for Ronald Reagan; and it will not work for George Bush. Without sensible stimulus and sensible investments in the future, America's economic performance and standard of living will continue to suffer.

Finally, it is clear that as a Nation, we have been under-investing for the past decade compared to our major international competitors. We have no one to blame but ourselves for the decade of poor economic performance the Nation has endured.

United States private investment as a percentage of GNP was at 18 percent during the 1980's, compared to 29 percent in Japan. Investment in research and development has been stagnant or declining, in sharp contrast to our major economic competitors.

We are also failing to maintain our public investments. About 25 percent of America's capital stock is owned by Federal, State, and local governments. But we are not investing enough even to maintain that stock, let alone improve it. In the late 1960's, infrastructure investment peaked at around 4 percent of gross domestic product. During the 1980's, it fell to just over 2 percent.

In the 1980's, Federal spending on education and training fell by 40 percent; on the environment, by 39 percent; on roads and transportation, by 32 percent.

This abdication of Federal responsibility has put unbearable pressure on State and local governments in recent years, and it has been a major factor in causing State and local taxes to rise. The fiscal squeeze on those governments, in turn, has become a major factor in prolonging the recession.

If we do not end the current squeeze and relieve these contractionary forces on State and local economies, the Nation's economy will not grow. The majority of the American work force will not have good jobs, or be able to participate in the American dream.

The handwriting is on the wall. You do not have to be a Nobel Prize-winning economist to understand that something is wrong. America continues to drift down the wrong track, because we are following the wrong economic policies.

As this debate has proved, Democrats have a better alternative, but we do not yet have the votes in Congress to enact it, let alone override a Presidential veto.

Nevertheless, it should be clear to all that the old order has failed. 1992 is like 1932 and 1960. We need new economic policies to lift this Nation out of the recession and begin restoring prosperity—and the sooner we adopt them, the sooner we will end this unacceptable slide.

Mr. President, I ask unanimous consent that the letter from the economists I mentioned and other materials may be printed in the RECORD.

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

AN OPEN LETTER TO PRESIDENT BUSH, MEMBERS OF CONGRESS, AND FEDERAL RESERVE CHAIRMAN GREENSPAN

The economists signing this letter urge you to take prompt measures to stimulate vigorous economic recovery in 1992-93 and at the same time to speed up productivity growth over the years ahead. We are afraid that many of the proposals you are now considering will fail to achieve either of these objectives, or will contribute to one at the expense of the other. Policies are available that will help on both counts.

We favor:

First, further reduction of interest rates by the Federal Reserve,

Second, tax credits for business plant and equipment investments,

Third, and importantly, a $50 billion-a-year program of federal assistance to state and local governments emphasizing public investment in education and infrastructure.

The Statement attached explains these recommendations and their rationale.

ECONOMISTS' STATEMENT

The U.S. economy faces both a short-run problem and a long-run problem. The two are quite different. For the immediate future the problem is temporary shortage of demand. The consensus forecast projects the economy to grow at a 3 percent rate in the second half of 1992. But even that would be at only half the speed we are entitled to expect in the first year after a long recession. For the longer run the prospect is slow growth of productivity and therefore slow growth of incomes, more and more unequally distributed between the best and worst off. Everyone agrees that the remedy for the long-run problem is more investment: in people, in infrastructure, in technology, and in machinery.

Expansionary Federal Reserve monetary policies have the virtue of stimulating spending in the short run on investments that pay off over the long run. We urge the "Fed" to cut interest rates still further. But the protracted weakness of the economy since 1989 signals unusual risks that monetary measures alone cannot produce a timely and healthy recovery. That is why it is prudent to adopt fiscal measures to help get the economy moving this year.

As Congress and the Administration decide on such policies, it is of overriding importance that they do it in a way that will not worsen the long-run problem. We believe that cutting income taxes is exactly the wrong approach. It would promote consumption, not investment. And although there is a case for a quick temporary tax cut, history tells us it would be almost impossible to reverse. Over-consumption is our chronic disease, not the cure.

Long before the recession wages had been falling behind inflation, far behind the aspirations of American workers. It is tempting to try to compensate for these disappointments by lowering taxes. But this is counterproductive. The only long-run solution is to raise the growth of productivity. Wages will follow. A far better vehicle for immediate stimulus is a program of federal assistance to state and local governments, aimed at increasing public investment in all forms, including education, which has suffered severely just at a time when improved and expanded education is widely recognized as an essential key to the future productivity and competitiveness of Americans. The long recession and stagnation in economic activity in the United States have devastated the finances of state and local governments. The prospect that economic recovery may be further delayed and will be weak when it occurs means that the fiscal crises of state and local governments will continue for at least two more years, probably longer.

Even before the recession began in 1990, these governments were being squeezed by declines in federal assistance, increases in costs of Medicaid and social services, deferred needs for infrastructure investments, and political constraints on taxation.

We believe, therefore, that the Congress should enact and the President should sign a program of additional federal assistance to state and local governments amounting to at least $50 billion a year (about 1 percent of GDP). This should be enacted immediately in order to provide timely financial assistance in 1992. The spending of these funds will help to stimulate the economy. Since the economy has idle resources of labor and capital available to meet additional spending with additional production and the threat of inflation is minimal, it is appropriate to let these expenditures add to the deficit financed by borrowing, and it would cancel most or all of the needed stimulus to aggregate demand if they were financed otherwise. In order to get the funds spent promptly, their distribution in 1992 should follow a simple formula with minimal conditions.

The long-run problems of our economy will not be solved in a year or two. The provision of federal aid to state and local governments should be part of a continuing long-run program. In later years, more elaborate targeting could be developed, to insure that the assistance is directed toward investment in people, knowledge, and productive infrastructure. Once the economy has substantially recovered, it will no longer be appropriate to pay for the program by federal borrowing. Instead, we propose that Congress and the President plan now to finance it by a combination of future cuts in defense spending and higher taxes. This program should not be allowed to interfere with continued reduction of the federal budget deficit.

Another measure that could help the economy in both short and long runs is the restoration of an investment tax credit, which served the economy well from 1962 to 1986. It would be far more effective than a reduction in the capital gains tax, because it can be more sharply focussed on new investment. Business investment spending will stimulate economic activity now, and the new plant and equipment will add to future productivity. A new ITC should be offered only for incremental investment above a recent base period and it might well be more generous for the coming two years of recovery than it would be permanently.

The nation cannot afford the economic waste and human distress of protracted high unemployment. We can put America back to work and we can do it in ways that will enable our workers to be more and more productive in years to come.

SIGNATORIES FOR OPEN LETTER TO PRESIDENT, CONGRESS, AND FEDERAL RESERVE

Moses Abramovitz, Stanford University.
Walter Adams, Michigan State University.
Irma Adelman, University of California-Berkeley.
George Akerlof, University of California-Berkeley.
Kenneth Arrow, Stanford University [Nobel Laureate].
Richard Attiyeh, University of California-San Diego.
Richard Bartel, Myron E. Sharpe, Inc.
Francis Bator, Harvard University.
William Baumol, Princeton University and NYU [Seidman Award]
Barbara Bergmann, American Univesity.
Peter L. Bernstein, Peter L. Bernstein, Inc. [Blue Chip Forecasting Award].
Francine Blau, University of Illinois-Urbana.
Robert A. Blecker, American University.
William Brainard, Yale University.
Roger Brinner, Data Resources, Inc.
Willem Buiter, Yale University.
W. Van Bussman, Chrysler Corporation.
Karl E. Case, Wellesley College.
David Colander, Middlebury College.
Paul Davidson, University of Tennessee.
Maryke Dessing, Bates College.
Peter Doeringer, Boston University.
Yon Dokko, University of Illinois-Chicago.
James Duesenberry, Harvard University.
Gary Dymski, University of California-Riverside.
Robert Edelstein, University of California-Berkeley.
Robert J. Eggert, Blue Chip Economic Indicators.
Gerald Epstein, University of Massachusetts-Amherst.
Jeff Faux, Economic Policy Institute.
Audrey Freedman, The Conference Board.
Marcia Freedman, Retired from Conservation of Human Resources.
James Galbraith, University of Texas-Austin.

J. K. Galbraith, Harvard University.
Roger H. Gordon, University of Michigan.
Sara Gordon, St. John's University.
Robert J. Gordon, Northwestern University.
Robert Haveman, University of Wisconsin-Madison.
Robert Heilbroner, New School for Social Research.
Donald Hilty, Chrysler Corporation.
James S. Henry, Lotus Development Corp.
Donald Hester, University of Wisconsin-Madison.
William B. Hummer, Wayne Hummer & Company [Blue Chip Forecasting Award].
Michael Hutchinson, University of California-Santa Cruz.
Saul H. Hymans, University of Michigan [Blue Chip Forecasting award].
Shulamit Kahn, Boston University.
Richard Karfunkle, Econoviews International [Blue Chip Forecasting Award].
David A. Kendrick, University of Texas-Austin.
Peter Kenen, Princeton University.
Philip A. Klein, Pennsylvania State University.
Lawrence R. Klein, University of Pennsylvania [Nobel Laureate].
Larry Kotlikoff, Boston University.
Paul Krugman, Massachusetts Institute of Technology [J.B. Clark Medal].
Helen Ladd, Duke University.
Gerald Lazarowitz, United Auto Workers.
Bruce Lippke, University of Washington.
G.S. Maddala, University of Florida.
Ray Marshall, University of Texas-Austin.
Kanta Marwah, Carleton University.
James Medoff, Harvard University.
Perry Mehrling, Barnard College.
Franco Modigliani, Massachusetts Institute of Technology [Nobel Laureate].
Basel Moore, Wesleyan University.
Richard Musgrave, University of California-Santa Cruz [Seidman Award].
Peggy Musgrave, University of California-Santa Cruz.
Rudolph Oswald, AFL-CIO.
Spencer Pack, Connecticut College.
George Perry, Brookings Institution.
Joseph Persky, University of Illinois-Chicago.
Edmund S. Phelps, Columbia University.
James L. Pierce, University of California-Berkeley.
Henry Pollakowski, Harvard University.
Marshall Pomer, University of California-Berkeley.
John M. Quigley, University of California-Berkeley.
Walter S. Salant, Brookings Institution.
Herbert Scarf, Yale University.
Thomas Schelling, University of Maryland [Seidman Award].
F. M. Scherer, Harvard University.
Frank Schiff, Retired from Committee for Economic Development.
John Karl Scholz, University of Wisconsin.
Tibor Scitovsky, Stanford University.
David Shapiro, Pennsylvania State University.
William Sharpe, Stanford University [Nobel Laureate].
Robert J. Shiller, Yale University.
John B. Shoven, Stanford University.
Allen Sinai, The Boston Company.
Robert Solow, Mass. Inst. of Tech. [Seidman Award and Nobel Laureate].
Albert Sommers, The Conference Board.
Martin Spechler, Indiana University.
Stanley Stephenson, Aetna Insurance Company.
Wolfgang Stolper, University of Michigan.
Richard Stuckey, E.I. Dupont deNemours & Co. [Blue Chip Forecasting Award].
Lester Thurow, Massachusetts Institute of Technology.
James Tobin, Yale University [Nobel Laureate].
Stephen Turnovsky, University of Wisconsin.
William D. White, University of Illinois-Chicago.
Barbara Wolfe, University of Wisconsin-Madison.
Jay N. Woodworth, Bankers Trust Company.
Edward Yardeni, C. J. Lawrence, Inc.
Janet Yellen, University of California-Berkeley.
Gary Yohe, Wesleyan University.

[From the New York Times, Mar. 31, 1992]

ECONOMISTS SHIFTING PRIORITIES

(By Louis Uchitelle)

Prodded by three years of economic stagnation, a growing number of prominent economists are putting aside their criticism of the budget deficit as the worst of economic evils. Instead, they are advocating a temporary rise in the deficit to generate spending for public works that would put idle people and machinery back to work.

The latest evidence of the new priority appeared yesterday in an open letter made public in Washington and signed by more than 70 economists, some of whom said they would not have signed it even four months ago. Although a surge in retail sales has raised hopes that a recovery is finally under way, many economists say that without an injection of public spending, the recovery might not endure.

The letter, addressed to the Administration, Congress and the Federal Reserve, called for the quick outlay of $50 billion a year in Federal aid to state and local governments.

EFFORT WOULD FINANCE PROJECTS

The money would be borrowed by the Federal Government to expand education and to finance local public works projects that were halted or cut back for lack of local tax revenue. The right projects would pay for themselves, the letter said, "since the economy has idle resources of labor and capital available to meet additional spending with additional production."

"I signed that document because the infrastructure side of it, funneling money to education, highways and the like, is a key to generating solid economic growth," said Allen Sinai, chief economist at the Boston Company Economic Advisers. Until recently, Mr. Sinai had focused on the dangers of the budget deficit, which is expected to reach nearly $370 billion in the current fiscal year.

TEMPORARY SHIFT IN PRIORITIES

But the shift in priorities should be temporary, Mr. Sinai and other converts stress. Once the national economy is growing vigorously again, they will go back to criticizing the deficit as an intolerable burden for future generations—a view still widely held.

Nevertheless, for a growing group of mainstream economists, the priority has become the use of deficit spending to make the economy rebound after 36 months of nearly zero economic growth or outright recession.

"The right question for economists to ask is how to use resources productively, particularly idle resources, and if that leads to an increase in the deficit, so be it," said Allen H. Meltzer, an economist at Carnegie Mellon Institute and a scholar at the American Enterprise Institute, a conservative research organization. "I have said this before, but perhaps not as forcefully as I could have."

SPECTRUM OF VIEWPOINTS

This new emphasis on public spending as an economic stimulant, although by no means unanimous, is nevertheless showing up across the spectrum of economic viewpoints. It was evident in interviews with a dozen prominent economists late last week. All acknowledged the trend, although some, like Henry Kaufman, an economic consultant and the former chief economist at Salomon Brothers, said they themselves had not converted from viewing the deficit as the No. 1 enemy.

Their view is that deficit spending, by putting more money into circulation, increases inflation. Higher inflation, in turn, or just the prospect of it, prompts holders of bonds and Treasury securities to demand higher interest rates. And as higher rates spread through the economy, companies and consumers are discouraged from buying homes, cars and machinery on credit.

"There is a tendency lately among economists to disregard the credit markets," Mr. Kaufman said. "They have an important veto in all this." Rather than higher deficits, even temporarily, Mr. Kaufman wants to put pressure on the Federal Reserve to reduce rates another notch.

So do officials in the Administration, which has also proposed tax cuts for the middle class. Similarly, Gov. Bill Clinton of Arkansas, the leading candidate for the Democratic Presidential nomination, favors middle-class tax cuts—steering clear so far of the deficit-spending issue.

Another outspoken opponent of rising deficits, Charles L. Schultze, a senior fellow at the Brookings Institution and chairman of the Council of Economic Advisers in the Carter Administration, bases his opposition mostly on concern that a temporary rise in deficit spending would become permanent in the hands of the Federal bureaucracy. But Mr. Schultze is beginning to waiver.

"I would like to wait a little longer to see if easier money—the recent decline in interest rates—will turn the trick," he said. "If it does not produce a satisfactory recovery, then we might have to do something with deficit spending."

SURVEY OF FORECASTERS

Reflecting this concern, 50 economic forecasters surveyed by the Blue Chip Economic Indicators now rate the deficit as of less importance than in 1988, the last year in which the American economy grew at an annual rate of more than 2 percent—the minimum considered necessary by economists to raise employment.

The chief sponsors of the letter made public yesterday in Washington were two Nobel laureates in economic science, Robert M. Solow of the Massachusetts Institute of Technology and James Tobin of Yale University, themselves converts last fall.

"Most of us think that for the long run, the huge budget deficit and the inability of the country to reduce it are a serious economic problem." Mr. Solow said. "What has changed is that the recession has lasted a long time and the prospect is for a very slow recovery. Economists are prepared to say that there is a chance we will do more long-range damage by letting people sit in the puddle of economic stagnation than we will do if we have higher deficits temporarily."

CHANGES OF VIEWS

The letter encouraging this deficit spending was signed by at least half-a-dozen economists who would have declined to sign it three of four months ago, among them Mr. Sinai of the Boston Company; Jay

Woodworth, chief economist at the Bankers Trust New York Corporation, and Roger E. Brinner, director of research at DRI/McGraw-Hill Inc., an economic consulting service.

Previously, they considered deficit spending for public works—the view that constructing, say, seaport projects pays for itself by expanding the nation's export capacity—too uncertain an economic stimulant to justify the risk of running up the national debt. And now they are giving ground.

"The deficit is still clearly a huge problem—that has not changed in my mind—but I am willing to let it slide up a few billion dollars in the short run, in order to make some progress in overall economic growth," Mr. Woodworth said.

SENSE OF URGENCY

And Mr. Brinner added: "I became very worried during the winter that people have lost faith in the economy, and that has increased my sense of urgency to do something. I would have preferred easier money—lower interest rates—rather than deficit spending to restore economic growth, but easier money is not forthcoming, so this is second best."

This new willingness to let the deficit grow is not shared by Alan Greenspan, the chairman of the Federal Reserve, who argues that a healthy recovery began to show itself last month in the sharp rise in retail sales and that deficit spending is therefore an unnecessary stimulant.

Indeed, the support for deficit spending would evaporate quickly if a full-blown recovery developed, said Paul Samuelson, another Nobel laureate, who until recently also opposed an increase in deficit spending. "No one wants to be caught favoring deficit spending when we are already in an expansion," he added.

[From the New York Times, Apr. 1, 1992]

BORROW MORE? YES, TO GROW

How's this for spit-in-your eye logic? Two weeks ago the Congressional Budget Office calculated that the already dismaying Federal deficit would rise this year by an alarming amount. Yet in the face of that, a group of 100 economists, including six Nobel laureates, calls on Congress to borrow billions more.

It may sound screwy, but in fact the call makes compelling economic sense. Yes, the stratospheric deficit needs to be controlled. But there are some things more important than reducing it quickly. What matters is less the size of the deficit than what the borrowed money is used to pay for. That's why the economists call for investing in infrastructure and education.

More public investments make sense in the short run, because they would help stimulate the economy out of recession. And they make even more sense in the long run by raising productivity and growth.

In an open letter to President Bush, Congress and the Federal Reserve Board, the economists call on Congress to pump $50 billion into assistance for state and local governments. The money would be used to better educate workers and to build highways, mass transit, technology centers. The open letter also calls for tax credits to stimulate private investment.

The economists acknowledge that these proposals would raise the deficit. But they make a convincing case for doing so. After all, the main reason for worrying about large deficits is that, by sucking money out of private capital markets, they drive down private investment. But if Congress turns around and uses the borrowed money to pump up private and public investment, the economy comes out ahead.

Besides, the alarming new $400 billion deficit figure is somewhat deceptive. It includes hugh transfers for the savings and loan bailout and for interest. These expenditures do little more than swap dollars from one set of taxpayer pockets to another. That affects the distribution of income for particular people but doesn't much affect the overall economy.

All that said, however, Congress has no warrant for turning cavalier about borrowing. The deficit is projected to balloon later in the decade for rock-solid reasons—like skyrocketing Medicare and Medicaid expenditures.

Unlike bank bailouts and interest payments on the national debt, money spent on health care will represent a real drain on the economy. The trick is to get out of the current recession—and then tend to the immense deficit with a careful mix of tax hikes and spending cuts targeted to cut consumption rather than investment.

The economists' letter rings with the unassailable logic. Deficit reduction is important, but not at any cost. Short term and long, starving valuable public investment for the sake of lowering the deficit does more harm than good.

Mr. KENNEDY. I thank the Senator from Tennessee.

I yield back to him whatever time I have remaining.

Several Senators addressed Chair.

Mr. DOMENICI. How much does Senator NUNN need?

Mr. NUNN. I ask for 15 or 20 minutes.

Mr. DOMENICI. Mr. President, I yield 20 minutes to Senator NUNN.

Mr. NUNN. Mr. President, I think this has been a very good debate this morning. Frankly, if we could accommodate the views of everyone here in one resolution, and talk more about taxes and talk more about what we are going to do substantively in health care, and also put this cap on, I think we could solve the deficit problem over about a 7- to 10-year period. It is not going to be easy.

But I find myself a little, I guess, amused, maybe perplexed, about the arguments used here by the opposition. Not the conclusions, but the arguments.

We have a group of people standing up saying we are going to cut military retirement; we are going to cut food stamps; we are going to cut veterans' benefits. They are saying this because they are saying we are aiming at health care, and health care is going to keep growing. Therefore, these others are going to be cut.

First of all, there is no sequester in this amendment. This is a goal; this is a set of targets. It is hard for me to believe the U.S. Senate does not want to have a target of getting entitlement programs down to the rate of inflation plus population. That is what this body is saying.

We do not even want a target. We do not even want to tell our committees that they have a target.

Everybody knows the problem with Gramm-Rudman-Hollings was it excluded half the budget. Which half did it exclude? It excluded the half of the budget we are talking about right now.

So what we are saying is let us not ever have a target on this half of the budget. Let us just keep pitting defense against domestic discretionary and go merrily along our way. Let us have a big debate between the two political parties about taxes; have a debate about who is going to hurt the poor, have that kind of debate, and go right on along merrily and do nothing about entitlements. That is what I am hearing.

The Senator from Massachusetts argues we are going to target Medicaid and Medicare, and that is what is going to get hit. Then he argues, in the same speech, what is going to happen is student loans are going to get hit, because we are not going to hit Medicare and Medicaid. Then we have somebody else arguing we are not going to hit Medicare and Medcaid, and therefore agriculture is going to get hit. And then we have somebody else arguing that is not going to happen; we are not going to do anything about any of those programs. It is going to be veterans that are going to get hit.

Mr. President, they cannot all be right. They cannot all be right. Somebody is wrong, because if we simply live within these targets, if we simply keep the entitlement programs about 50 percent of the budget, within the rate of inflation plus the population growth, and if we start 2 years from now and begin to restrain the growth rate methodically, nobody gets hit. Nobody gets cut. Everybody's benefits continue to grow.

We are not cutting someone's benefits. We are talking about how much they are going to grow. We are talking about a rate of growth of inflation plus the population growth in the respective programs.

Mr. SASSER. Will the Senator just yield on that point?

Mr. NUNN. I want to finish my remarks, and then I will be glad to yield.

I see the chairman of the Appropriations Committee here. I heard the remarks of the Senator from Texas, the chairman of the Finance Committee.

Frankly, I agreed with 90 percent of what the Senator from Texas said. I think he is absolutely right when he says that this amendment does not solve the underlying problem.

As one of the authors of this amendment, I would stipulate that. It does not solve the underlying problem.

It is a goal. It is a target. It is an instruction to our committees to begin looking at this. That is what it is. It does not solve the underlying problem, no. Gramm-Rudman-Hollings did not solve the underlying problem. It did put restraint on half the budget. It let the other half off. The Senator from

Texas said that we have to deal with Medicare and Medicaid. He is absolutely correct. He also said that in squeezing Medicare and Medicaid also we are putting more costs on the private sector, and their medical costs are going up. We have to address this as a whole, not just the Federal budget part of it. He is absolutely correct; there is no doubt about that.

He also announced he is going to be dealing with the problem. I think that is good. He also said very clearly that the administration has not dealt with the problem. I agree with that. So I agree with almost everything the Senator from Texas said. But I disagree with his conclusion, and that is that if we pass this, it is going to lull us into thinking we have dealt with the problem and give us a false sense of security.

Mr. President, that has been the problem for the last 10 or 15 years. We have been lulled into a false sense of security. Gramm-Rudman-Hollings excluded half the budget—half the budget—and we pretended it was going to get the expenditures under control. Everyone knew, when we excluded entitlements, that it could not.

I suspect we are going to have amendments this morning, one after another, to do what we did to Gramm-Rudman-Hollings and that is take some of these programs out. The first one, I am sure, with all my friends who are veterans will be veterans' programs. And I have received just about every award and I have been honored by them in almost every respect. Veterans' benefits have not been growing over the rate of inflation. In fact, over the last 10 years they have been under the rate of inflation. Veterans are not going to get hit under this proposal unless we come up with a law later that sequesters in a way that penalizes programs that are growing under the rate of inflation. I would not support such a procedure. We are not dealing with any self-implementing law this morning.

But here we go this morning, and it is going to be clear, before this debate is over, exactly why we have a runaway budget deficit. It is going to be very clear because we are going to have an amendment to exclude veterans. If that passes, and I suspect it will, we are going to have an amendment to exclude student loans. If that passes, and I suspect it will, we will have an amendment to exclude agriculture. If that passes, and I suspect it will, we will have an amendment to exclude unemployment. If that passes, and I suspect it will, we will have an amendment to exclude Federal retirement. If that passes, we will have an amendment to exclude food and nutrition, and then we will have an amendment to exclude SSI, and then we will have an amendment to exclude the earned income tax credit, and then we will have an amendment to exclude Medicaid, and then we will have an amendment to exclude Medicare, and, glory be, we will have 50 percent of the budget excluded, we will be back to the status quo and go home and make speeches about fiscal responsibility, and we will continue to debate how much we take out of defense to put into domestic discretionary programs.

I say that is the pattern, and that is where we are going. We will not make progress toward the deficit, but we will make it abundantly clear to the American people and to all those in the media who may be interested in this—and not many are, I recognize that, and that is one of the problems because you do not get enough media attention on this subject to even have an educational debate in the country. That is one of the big problems. But I say, Mr. President, that it is going to be clear before this debate is over—and that is why I think it is worth doing, I think it is a healthy debate—it is going to be clear what the problem is.

I agree with 90 percent of what the Senator from Texas said. There are a couple of things I do not agree with. I say, if we tell the Finance Committee, who has jurisdiction over a lot of these entitlements, and I know the Senator from Texas has done an extraordinary job in trying to deal with this, if we tell them they have a goal, we will be telling them the same thing that we tell the Armed Services Committee. We debated that yesterday. It may not have come out the way some of our colleagues wanted, but the Senate of the United States gave the Armed Services Committee their number. We are going to salute and meet that number. If it comes back to conference different, if it is lower on defense, we are going to salute, and we are going to meet that number.

The chairman of the Appropriations Committee gets his number. He gets his instructions. When this debate is over, Senator BYRD, from West Virginia, will have his instructions. He may not like what he has, but he is going to do his duty because he always has. He is going to meet his targets because he always has.

So what is wrong with taking the other 50 percent of the budget and saying, this is not something that we can ignore. We cannot ignore it. Mr. President, there are four basic components of deficit control. One of them is defense. One of them is domestic discretionary. Another is entitlements. And the way I divide it, in broad terms, the other is taxes. We have dealt with 3 of those over the last 10 years. We have raised taxes, maybe not in the way some people would like, but we raised taxes. I voted with the Senator from Texas 2 weeks ago to raise taxes on the wealthy, which was the point the Senator from Michigan made. I will vote to raise taxes on the wealthy. If somebody proposes that amendment to this proposal, I will vote for that, and I will make that part of deficit reduction.

So we have dealt with the tax part of this budget. We have not done enough perhaps. We are going to have to do more. I have said, and said yesterday when we announced this, I am willing to vote for more taxes, but not until we do something about the entitlements.

We have dealt with defense. I will not go through all the numbers on that. Maybe it is not as much as some people would like to cut. I am sure we are going to visit it again next year and there are going to be other cuts made in defense.

We have dealt with domestic discretionary. The Senator from West Virginia has made a powerful case, and I have listened to it carefully. He made a powerful case about what happened to domestic discretionary and a powerful case for infrastructure, the need for economic growth and skill training and education. He made a deep impression to me. I am going to be looking for more defense cuts because of the things the Senator from West Virginia said. I have listened to him. I have not voted with him, I have not agreed with his bottom line. I listened to him, I respect him, and I learned from him.

Mr. President, guess what part of the budget we have not dealt with? We have not dealt with entitlements, and before this debate is over, it will be very clear to everyone why we are not dealing with entitlements. People know that the phones are ringing, the mail will come in, every group that is in this category I rattled off this morning has been told by some phantoms here on Capitol Hill—and if you gave me a few hours, I could figure out who they are and say who they are, but I will not because this is part of the procedure in this democracy—they have been told, "Please notify your Senator your program is going to be cut, there is going to be a sequester. The veterans are going to be cut. Federal retirement is going to be cut. The military retirement is going to be cut. Unemployment is going to be cut. Food and nutrition is going to be cut. They have all gotten the notices in the last 24 hours, and we are getting the feedback. We are hearing from them.

When you explain it to them, they will say, "Oh, I didn't understand it that way. That isn't what our lobbyist in Washington told me. He didn't tell me that."

Mr. DOMENICI. Could I ask Senator NUNN a question? Most of these people would agree with what we are doing. Most of the people who called in would agree with what we are doing if they understood it. Does the Senator think it is going to be explained to them right?

Mr. NUNN. No; that is the problem.

Mr. President, I have no illusions. I can count votes around here, and I know how this is going to go. I could

predict it before we ever put in our amendment. But I do think it is a healthy debate because it is apparent to anyone who might be interested in what the problem is in the Federal budget, and I think it is very clear.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I want to ask the Senator a question. Does the Senator know, of all of the entitlements we have heard how much of all of these entitlements go to those unfortunate people in our country who need help? Would the Senator happen to know, out of all the entitlements, what percent goes to the poor and what percent of the entitlements go to the nonpoor?

Mr. NUNN. I do not know the number, but I think a vast majority of the entitlement programs go to people who are not in any way categorized as poor.

Mr. DOMENICI. The Senator is absolutely right. The numbers are $500 billion go to the nonpoor and $100 billion to the poor.

Now, we could, somewhere along the line, if the debate was serious, we could say take out the 100 and look at the 500, but there would be problems with that, too. You can bet on it because, just as I received a letter—the Senator was talking about lobbyists. Did he get a letter that said: "Dear Senator NUNN, we would like you to know that Senator NUNN is offering an amendment which is going to cause us to lose our pension"? I received one. I received one from somebody that said: "Dear Senator DOMENICI, please be advised that we are worried about an amendment that Senator DOMENICI is offering." I assume that they are cranking them out some way. They did not even know they were writing to the same person they were talking about as far as the amendment. I do not see that the Senator has received any of those yet.

Mr. NUNN. I have received several of them. Most of mine so far say: Thank goodness Senator DOMENICI is sponsoring the amendment.

Mr. DOMENICI. And not Senator NUNN.

Mr. NUNN. They have not completely understood that yet, but they will by next week.

Mr. President, in my opinion, this is the most important fiscal amendment we will vote on this year. It would put us on a course toward fiscal responsibility and meaningful deficit reduction over the next 5 to 10 years. It would reduce future spending for national defense below the level contained in the resolution before the Senate. It would freeze future domestic discretionary spending at the current level, but it would create a special fund from defense savings for investment in public infrastructure and human capital projects. Most importantly, it would begin the process of restraining the future growth in mandatory spending on entitlement programs.

Let me be clear. This amendment is strong medicine. But everyone in this Chamber knows that our Nation is in poor fiscal health, and the long-term prognosis is not encouraging. The symptoms of our economic illness have been repeated on the floor many times during this debate.

The Federal debt has tripled, from $1 trillion to over $3 trillion, in the last 10 years.

The budget deficit has ballooned to $400 billion in fiscal year 1992. The Federal Government is spending more than $1 billion a day more than it is taking in, consuming savings that could otherwise go toward investments to improve our productivity and competitiveness.

In the last 12 years, the United States has gone from being the world's biggest creditor to the world's biggest debtor nation.

The rate of growth on mandatory spending in entitlements is out of control. CBO projects that over the next 10 years, Medicare and Medicaid will increase from 13.5 percent of Federal outlays to 25.3 percent. Last year OMB Director Richard Darman testified that by the year 2025, Medicare outlays alone could consume 30 percent of Federal spending.

Our challenge, Mr. President, is clear. Sooner or later—and I hope it is sooner—we must come to grips with fiscal reality. We must commit ourselves to a course of action that will promote sustained and robust economic growth and still get the deficit under control over the next 5 to 10 years.

No one voting for this amendment is going to win a popularity contest, at least not in the near term. But if we adopt this proposal, or something like it, we may begin gaining back something we are losing here in Washington—the confidence and respect of the American people.

DOMENICI-NUNN PROPOSAL

I want to briefly outline the main features of this amendment.

On defense, this proposal reduces defense spending below the Bush fiscal years 1993–97 budget by $35 billion in budget authority and $33 billion in outlays. That is a total reduction, in real terms, of over $450 billion in budget authority between fiscal years 1990 and 1997 from the 1990 budget summit baseline. By fiscal year 1997, defense spending under this proposal will be 3.5 percent of our gross domestic product, the lowest level since before World War II.

On domestic and international discretionary spending, this amendment proposes a nominal freeze over 5 years at the 1992 levels. However, the amendment creates a reserve fund for high priority investments in our human and physical capital—such as education, skill training, infrastructure, technology and other economic growth enhancing initiatives. Once the defense reductions are achieved, those savings would be available for these high priority programs. The reserve funds will not be available for all domestic discretionary programs, Mr. President—only those that are truly investments in future growth.

On entitlement programs, this amendment calls for the creation of a cap on mandatory programs starting in fiscal year 1994. It specifically excludes Social Security, which pays for itself. Initially this cap would allow for growth in caseloads, plus inflation, plus 2 percent. This allowance for 2 percent growth over and above inflation, and over and above growth in the number of people entitled to receive benefits, would decrease down to zero percent by 1997.

Let me make it clear, this amendment is not designed to eliminate all increases in future mandatory spending on entitlements. It is simply designed to restrain the future rate of growth to reasonable and affordable levels. In 1997 we would save $40 billion by restraining the future growth in mandatory programs. Ten years from now, the savings would be $150 billion a year, just from eliminating the excess growth in entitlement spending over above population growth and inflation. All these savings would be achieved without touching Social Security.

On revenues, there are no tax increases in this proposal for the next 5 years. Our present tax code is part of the problem. It discourages savings and investment and encourages consumption. This has got to change if we are going to have the kind of growth we need to get our fiscal house in order and get real wages rising again.

Over the next 5 years, this proposal would reduce the deficit by about $100 billion more than the President's budget or the budget resolution reported by the Budget Committee. Over the longer term, it will get us at least in the neighborhood of balancing the budget by early in the next century when the Social Security surplus—which will be about $150 billion ten years from now—is included. I believe our long-term goal must be to balance the budget without counting on the Social Security surplus.

SHORTCOMINGS OF THE PROPOSAL

Mr. President, this proposal is not perfect. I have said for many years that any comprehensive deficit reduction plan must deal with all aspects of the Federal budget—defense spending, domestic discretionary spending, entitlement spending and revenues.

This plan deals only with three of the four elements. It does not address revenues. Simple arithmetic tells me that we will not get the deficit under control just by cutting spending. Sooner or later we are probably going to have to find some revenue increases.

I am convinced, however, that we must show the American people that

we are serious about controlling spending before we can reasonably ask them to pay more taxes. I am convinced that we must act now to begin to control entitlements. Until we can demonstrate that we have the discipline to control entitlement spending, I don't think there will be very much support to raise revenues and for good reason.

When we have demonstrated we can get spending under control, then I will be in favor of increasing revenues if it is still necessary.

Controlling the deficit is not possible without economic growth. In fact, one of the assumptions of our proposal is that we will have average annual growth of 2.1 percent in our economy over the next decade. We have not been able to pass an economic growth package so far this year, and this amendment is not a substitute for an economic growth package. Our policies on the spending side and the revenue side must promote growth, but at the same time they must be fiscally responsible.

IMPACT OF THE DEFICIT ON THE ECONOMY AND LONG TERM GROWTH

Mr. President, our economy is in a vicious cycle of excessive budget and trade deficits, low savings, low investment, low economic growth, and stagnant productivity and standards of living. The budget deficit is reducing our economic growth, and low growth causes further increases in the deficit. Unless we break this cycle—unless we increase our savings and investment—we will see an accelerating downward spiral of our economic strength and in our ability to do anything about it.

If we intend to solve our long-term economic problems, our No. 1 priority must be to get the budget deficit under control. The current flood of Federal borrowing competes with every American business that would like to borrow to modernize and expand, raising interest rates for business and government. Higher interest rates make investment more expensive, so businesses invest less, and America loses jobs because higher interest rates mean more efficient plants don't get built here in the United States.

The deficit is also crippling the Government's ability to react to crises and opportunities at home and abroad. It has severely limited the possibility of using fiscal policy to combat the recession. It is difficult to find new money for our national needs, such as better access to health care for the 37 million Americans presently without insurance, or investments to address our long-term competitiveness problems.

UNCONTROLLABLE SPENDING

Mr. President, we all know that the major cause of our deficit problem is what we call mandatory or uncontrollable spending—entitlements and interest on the debt.

According to a recent study by the Congressional Research Service, over the past 25 years, spending on social welfare programs—the entitlement programs like Medicare, Medicaid, AFDC—has increased by an average of 6 percent per year, or $21 billion annually in constant 1991 dollars. Social Security has also grown rapidly, but so has the payroll tax pumping money into the Social Security system. Without the Social Security surplus, which was designed for future years, our deficit would look even worse. What the general fund borrows from Social Security must be paid back, and when that day of reckoning comes, the next generation of American leaders will be held accountable by voters.

In testimony before the Governmental Affairs Committee recently, Mr. Bowsher, the Comptroller General, gave a graphic example of runaway entitlements costs. He pointed out that Federal outlays for health care have increased by a whopping 185 percent in real terms since 1980, far outstripping any other category of outlays from the general fund.

Spending for interest on our growing national debt has grown 6.7 percent per year, an increase of $6 billion per year above the rate of inflation. Within another few years, interest on the debt will exceed the defense budget, just as it has already grown in the last decade to exceed domestic discretionary spending.

On the other hand, spending for discretionary programs—both defense and nondefense—has increased by 0.6 percent annually over the last 25 years, only about $2 billion per year above the rate of inflation.

THE LONG-TERM PROBLEM

Mr. President, the Congressional Budget Office economic projections for the next 10 years are not encouraging. According to CBO, if we continue to live by the budget agreement through 1995, and then let discretionary spending rise with inflation after that while revenues and entitlement programs continue to follow current law, not only will the deficit not go away, it will continue to grow.

CBO projects that even if the economy grows at about 2.5 percent per year in real terms, the deficit 10 years from now will be over $400 billion. According to press reports, OMB Director Darman recently told some Senators that the deficit could keep rising from this $400 billion level to a figure of over $600 billion by the year 2005.

An important distinction to keep in mind is that this year's $400 billion deficit includes a Social Security surplus of $50 billion. But 10 years from now, that surplus will be $150 billion. So a $400 billion deficit 10 years from now is really a deficit of almost $600 billion when you exclude the Social Security surplus. This money must be paid back to the Social Security surplus. This money must be paid back to the Social Security trust fund when the baby boomers retire. If we don't want to default on benefits when that day comes, then we are going to have to enact the largest tax increase in American history. One way or another, unless we change our current fiscal course, our children and grandchildren are going to have to sacrifice their standard of living to pay for ours.

Mr. President, we are not going to get the budget under control by doing nothing and hoping the economy will grow faster. CBO's projections already include an estimate of 2.5 percent real economic growth per year, and CBO projects a deficit of over $400 billion in the year 2002. We are not going to solve the problem just by raising revenue. We are not going to do it just by cutting domestic discretionary spending. And we are not going to eliminate the deficit just by cutting defense spending. Everyone in this chamber knows that we are not going to get the deficit under control until we control the rate of growth in mandatory entitlement spending. That is the real heart of the Domenici-Nunn-Rudman-Robb proposal before the Senate.

CONCLUSION

Mr. President, I can understand that a majority of my colleagues may not be quite ready for a dose of this strong medicine. But let me just say that if we do not do something like this—this may not be the best answer. I am not saying it is the only way. Maybe there are other ways. I am sure others are going to think about ways that are better. This proposal can be improved.

If we pass this this morning, we are going to have to implement it. We are going to have to think carefully and have hearings with all the interested parties about implementation. But the bottom line is this: This is the first generation of Americans in history that is maintaining its own standard of living by basically lowering the standard of living of our children and our grandchildren. That is the bottom line. That is what we are doing.

If that is the heritage we are willing to leave—then we can go on conducting the Nation's fiscal business the same way we have for the last 12 years. For those who are willing to maintain the status quo—to continue to borrow from our children and grandchildren—the vote on this proposal is "no."

For those who want change, Mr. President, for those who want to pass on a prosperous and expanding economy and a higher standard of living to our children and grandchildren—then the vote on this proposal should be "yes."

Everyone recognizes that we are going to have to put together a fiscal blueprint to reduce discretionary spending, control future growth in entitlements, and reduce the deficit. I think Senators will find that any blueprint that tries to accomplish these goals will resemble this proposal.

The longer we wait, the stronger the medicine is going to have to be to cure our fiscal problems.

The choice is clear, Mr. President, I rest my case.

Several Senators addressed the Chair.

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

Mr. SASSER. Mr. President, I quite understand the motive of my friend from New Mexico and also the motive of my friend from Georgia. They are concerned about the growth in entitlements. I think many of us on both sides of the aisle are. We are worried about the growth in spending in other areas, too.

I think the objection primarily to this proposal that is brought to us today is, No. 1, it is ill-considered. I do not even think the authors, for example, have had time to fully consider it. My friend from Georgia says that under this proposal they are offering, veterans will not be cut. I am confident he believes that. But the facts are that under the formula they are proposing, and according to numbers that have come down from the Congressional Budget Office, the nonpartisan Congressional Budget Office, in 1997 under their proposals veterans' compensation will be cut by $1.408 billion. Maybe it ought to be. I do not know. But the fact is it will be. Veterans pensions will be cut by $353 million in fiscal year 1997 under their proposal. Why? Because under the formula that they are offering you get a decreasing compensation for inflation, and these cuts do kick in.

Now, no wonder these people are calling, because some of them have read Senator DOMENICI's remarks, I suppose, in the RECORD and some of them have been alerted. What is wrong with that? Nobody complained about the defense industrialists, those who manufacture military equipment, when they were crowding these halls out here, when they were calling our offices. People were calling me and saying, oh, we cannot cut that military budget because we manufacture a certain part over here, 200 or 300 people might lose their jobs. Who put the word out on that? This is part of the democratic process, for people to be able to petition their legislators. Surely, my colleagues do not want to restrict the basic freedom. I know they do not. I know they believe in that.

Mr. RIEGLE. Will the Senator yield at that point just for 1 minute?

Mr. SASSER. I will be pleased to yield to my friend from Michigan.

Mr. RIEGLE. On that point. One of the letters is from the Paralyzed Veterans of America and signed by Victor McCoy, Sr., who is the national president. I am going to put the whole letter in the RECORD, but I just want to read one paragraph because these people do understand how this proposal works. Listen to what he says here. He is talking about this proposal coming from the other side. He says:

> Both these approaches to control mandatory spending are inherently unfair to veterans. Both would force reductions in veterans' benefits due to uncontrollable growth in other programs. To force cuts in compensation for service-connected disabilities and survivors' benefits, disability pensions for wartime veterans, vocational rehabilitation, and educational benefits is to abrogate the Nation's commitment to the men and women who have served in the Armed Forces.

I would say, with all due respect to the Senator from Georgia and everybody else, I think this man has looked at this. I think he understands it. I think he is representing his people. I think he has a right to do so. And I do not think we ought to turn a deft ear to what he is saying.

Mr. President, I ask unanimous consent that Mr. McCoy's letter be printed in the RECORD.

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

PARALYZED VETERANS OF AMERICA,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN SASSER: On behalf of the members of Paralyzed Veterans of America (PVA), I urge your strong opposition to an effort which would impose direct spending caps under which overall limits on mandatory spending would be enforced through sequestration. While PVA recognizes the importance of controlling growth in federal spending and reducing the growing national deficit, this proposal arbitrarily would subject entitlement programs for the nation's disabled and poorest veterans to sequestration; sequestration that is the result of growth in other direct spending programs. Additionally, this proposal exempts Social Security benefits thereby establishing a gross inequity in the treatment of America's veterans.

The proposal, which we understand will be sponsored by Senator Dominici, Ranking Member of the Budget Committee, is based upon the earlier OMB proposal contained in the President's Fiscal Year 1993 Budget. This earlier proposal would cap combined mandatory spending based on a "population plus CPI" with an established percentage allowance. The newer proposal would establish the cap using a smaller allowance factor.

Both these approaches to controlling mandatory spending are inherently unfair to veterans. Both would force reductions in veterans' benefits due to uncontrollable growth in other programs. To force cuts in compensation for service-connected disabilities and survivors benefits, disability pensions for wartime veterans, vocational rehabilitation and educational benefits is to abrogate the Nation's commitment to the men and women who have served in the Armed Forces.

Again, I urge your opposition to any proposal to establish mandatory spending caps which targets veterans' benefits for reduction while exempting other mandatory programs or which would cut funding of veteran's programs due to growth in other entitlement areas.

Thank you.

Sincerely,

VICTOR S. MCCOY, Sr.,
National President.

Mr. RIEGLE. I will not read the letter from the Veterans of Foreign Wars or from the American Legion. I think these organizations are legitimate, solid; they are concerned; they are concerned for a reason, and I do not want to see them dismissed.

Mr. NUNN. Will the Senator yield briefly, just briefly?

Mr. SASSER. I will yield.

Mr. NUNN. Mr. President I do not think anything in my remarks in any way disparaged any veterans organization whatsoever. They are sincere, honest, honorable people who have served their Nation. They have every right to notify us. I have always welcomed every correspondence that I have received from veterans. I welcome phone calls from anyone. Fine. I do think this amendment has been explained to them in a way that is not correct.

Mr. RIEGLE. I would just say to the Senator, I got the impression that the feeling was they were somehow misled or that they were somehow not understanding this thing.

I think the paragraph I just read makes it crystal clear they understand exactly how this would work. I will just read one line out of the letter from the head of the Veterans of Foreign Wars, who concluded on this proposal, saying: "This would constitute a grievous injustice to our disabled veterans." He goes on in that vein. That is Robert Wallace.

I think these people take their responsibilities just as seriously as we take ours. I think they do understand the proposal. I think they do understand the proposal. I think that is why they have written and why they are so distressed about it, and that is why I am distressed about it.

Mr. SASSER. Mr. President, a point I want to make and the point that I took the floor to make is that my friend from Georgia, I think in good faith and certainly believing it to be true, says that this plan does not reduce veterans' benefits. Now, the Congressional Budget Office disagrees with him on that.

I am confident that my friend from Georgia, who is known as one of the most energetic and dedicated Senators in this body, has not had the time to fully analyze this proposal which is before us in the press of business that has been coming before us in the last few days and last few weeks.

The bottom line is when you start analyzing this proposal, it is ill conceived. It is ill conceived. It does not address the problem that they seek to address in a fair and equitable manner. That is why we have this uproar in the community of people and groups that will be affected. It is just that simple.

Now, the comment was made that 80 percent of the people who will be af-

fected are middle-income people. These are not programs that are means tested.

Now, if we are trying to get to middle-income entitlement programs, why did we exempt the largest one? Why did we do that? Why did we exempt Social Security?

Mr. DOMENICI. I would like to answer, if the Senator would like me to answer.

Mr. SASSER. Let me answer it and then the Senator can answer it on his own time. That amounts to 44 percent of all the entitlement programs. Why did we exempt that? Because this body knows the power, the power of the Social Security lobby. But who is here speaking for the food stamp recipients? One out of every ten Americans is on food stamps today. Why were they not included in here?

How about the supplemental security income people, the very poorest in our society, as the Senator from Michigan said, the lame and the halt. Why were they not included in here and the Social Security recipients excluded? I wonder why. Child nutrition, why were they not in here?

If we want to get the middle-income entitlement programs, I say to my colleagues, let us make a clean breast of it. Let us put Social Security in here. Let us show some political courage if we are so concerned. And I predict that if an amendment comes before this body to take another middle-income entitlement program—it is not totally middle-income, but upper-middle-income people benefit from Medicare—if there were to be an effort to modify it and exclude those at the top of the income bracket, why, the proponents of this would wilt like summer soldiers in the heat of the day. No, they will abandon this proposal.

So if we want to deal with these entitlements—and I think we all want to—to sit down and approach it in a systematic fashion, I say to my colleagues this will never be dealt with until there is leadership coming out of the White House.

The problem with this budget and the problem with these mandatory programs and the problem with this deficit is we have not had a good President of the United States for a long, long time and this country is the worse for it. We need leadership.

The distinguished chairman of the Appropriations Committee, the President pro tempore, who served in this body longer than any individual, who has written a two-volume history of the U.S. Senate, knows more about its workings and the individuals that have served here over half a century probably than any other human being on the face of the Earth, told this body yesterday that Congress is an amalgamation of 535 individuals. Congress reflects the best and the worst of the American people.

It reflects their wishes, their desires, their fears, and anxieties. But Congress and the U.S. Senate will rise to the task if there is leadership. It is leadership that is lacking. That is why I say to my colleagues we cannot come here today with some sort of ragtag package that has been made too quickly. It simply does not get the job done. It sends false alarms all across this country. It raises fears. It raises anxieties. And in the final analysis, it inhibits efforts to deal with the problem.

I see the distinguished majority leader is on the floor. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I believe that this debate has served a very useful purpose. It has made clear, clearer than it has ever been, that the real problem confronting our society is the runaway increase in the cost of health care. This resolution has been criticized as unfair, and I join that criticism, because it would provide cuts in programs that are not the principal source of the problem, and avoid dealing with what is the principal source of the problem.

But I think the resolution does bring into focus, and causes us to debate and consider first the reality that we all know that the deficit is too large, and growing at too rapid a rate; and the very existence of the resolution and the very occurrence of the debate has made clear to Senators, and to the American people, that the crux of the problem, the root of the problem, is the rapidly escalating cost of health care.

The question has been posed here repeatedly today: Why should the compensation of a disabled veteran be cut because we are unwilling or unable to address the runaway costs of health care? It is a profound question. It is a very difficult question to answer.

I believe the answer is that the disabled veteran's compensation should not be cut. I believe the answer is that we should address the problem of health care. That is what the root cause of this is.

You look down this list of increases, you look down these programs that will be affected by this mandatory cap, and you see that the increase over and above the level set in the resolution is attributable almost entirely to health care costs.

The solution offered in the resolution is to cut other programs to make up for those costs, and then simply to provide a cap on the health care programs as well.

I do not think that is the answer. I think the resolution has served a useful purpose. But I think the answer is to deal with the problem of health care.

I hope that out of this debate comes a renewed determination that we will address comprehensive health care reform in this Congress in this year.

Mr. CHAFEE. Mr. President, will the distinguished majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. CHAFEE. The majority leader has set forth a very powerful statement. We have to do something about health care. Who is in charge around this place? I thought the majority party ran the Senate.

And if I might finish, Mr. President——

Mr. MITCHELL. Mr. President, I yielded for a question. If the Senator wishes to make a speech, I would ask the Senator to make it on his own time.

Mr. CHAFEE. Here is my question.

Mr. MITCHELL. Thank you.

Mr. CHAFEE. The Secretary of HHS has said the administration is willing to discuss a whole series of common points common to the program that the Senator introduced, common to the program the Republicans introduced, common to the program the chairman of the Finance Committee introduced. I think the Senator is familiar with those points of commonalty: Insurance market reforms, small group purchasing, reform of medical liability insurance, and so forth, but nothing happens.

We never get an invitation to sit down. We can perfectly well do it. Is it going to solve everything? No. But why does not the majority leader convene a meeting as he so ably did when we did the Clean Air Act some 2 years ago?

Mr. MITCHELL. Mr. President, I will be pleased to respond to that question. I did not in my remarks make any reference to one party or the other on health care. I did not make any reference to the administration or the Congress. The Senator in his remarks and his question has sought to draw a partisan distinction. So let me respond to that.

I hope my remarks and—it was my intention to try to create a bipartisan effort to deal with health care. But the problem is as soon as you mention the subject, someone jumps up on the other side and tries to make it into a partisan issue and suggests somehow that the majority is at fault for this. So let me respond to that question in that context.

Mr. CHAFEE. You characterized my remarks as partisan. So proceed.

Mr. MITCHELL. President Bush took office nearly 3½ years ago. Health care was a problem then. Health care was a problem every single day that he has served as President and that we have sat in the Senate since he took office.

After 3 years of study, the President finally made a speech more than 2 months ago on health care. And to this very moment, at 12:39 p.m. here in the middle of April, the President has not submitted a bill, and the administration will not tell us if or when they will submit a bill.

The Senator asked about leadership. I say there is an absence of leadership. A critical problem confronting every family in America, a critical problem contributing to the runaway budget deficits which the authors of this resolution are trying to control—the intention to which I agree, but the manner in which I do not—is a problem which affects every one of us in our society. And to this moment 3½ years after taking office the President has yet to submit a bill on health care.

So I submit to the Senator that is the root of the problem, and that is where the lack of leadership is.

More than a year ago, I introduced legislation—it is right here—to deal with the problem of health care, which has as its principal objective controlling the runaway increase in the cost of health care.

When I introduced this bill, I said I do not present this as the perfect bill, as the only way, even as the best way to deal with health care. It is the product of 2 years of study and effort by a group of Senators who felt that we must bring runaway health costs under control.

We welcomed alternative suggestions, and I commend the Senator from Rhode Island, because he joined with a group of Republican Senators and made an alternative suggestion. But the Senator from Rhode Island knows deep in his heart and in his mind, just as I do, that no health care legislation, comprehensive in nature, can become law without the President's participation and active involvement. That has not occurred. Three and a half years after he took office, 2 months and 1 week after he made a speech, we still do not have a bill, and we do not have any indication of if or when there will be a bill.

I will sit down with the Senator from Rhode Island, the Secretary of Health and Human Services, and any person the administration would like me to sit down with. I invite that participation right here and now. I will have a meeting at any time to try to get this thing moving.

But there has been no interest at all. All we have received are partisan speeches attacking our bill. That is what we have received. All of those speeches—let me finish, and I will yield the floor and the Senator can respond.

All we got from the administration is partisan attacks on our bill. No effort to propose a positive alternative. I think this debate has crystallized this issue in a way that has not occurred up until now. I think this debate has made clear to everyone that we have to do something about runaway health care costs in our society. It is the root of the problem here. The Senator's resolution makes that clear beyond any doubt.

So there is no disagreement about the problem of the increasing deficit. There is no disagreement about the root cause of it being health care costs. The disagreement is how do we address it?

We have proposed an alternative, and I invite the President to do the same.

Senator BENTSEN'S committee is going to hold hearings on May 6. Why does the administration not submit a bill by May 6? Why does the President not get up and introduce a bill, as opposed to making a speech, so we can take the bill we have introduced, and we can take the President's bill, and the bill of the Senator from Rhode Island, and see if we can, out of that debate and discussion, come up with legislation that will do what we all want to do: control these runaway health care costs—not just the cost to the Government, because one of the fatal defciencies of the resolution, I believe, is that by simply capping reimbursement from the Government programs which constitutes less than half the total cost in our society, we will undermine numerous institutions, not the least of which are rural hospitals. A large number of rural hospitals in America would have to close if this resolution were adopted.

What we would have is massive cost shifting and no reduction of cost. If you say you are going to only stop or reduce the payments by one provider, or one source of payment, you are going to have leakage out there, and you have to have across-the-board, overall cost reduction in health care. In fact, the cost increases of programs we reimbursed outside of the Government are higher than in the Government, because we have the capacity to say we are only going to reimburse to a certain level.

So I say to the Senator, I welcome any meeting or discussion, and I welcome debate. We have to control health care costs, and we have to do it this year.

Mr. DOMENICI addressed the Chair.

Mr. NUNN. Will the majority leader yield?

The PRESIDING OFFICER. The Senator recognizes the Senator from New Mexico.

Mr. MITCHELL. Can I correct one misstatement? I said I introduced a bill more than a year ago. It was June 5, 1991. It seems like a lot more than year ago, but it was slightly less than a year ago.

Mr. DOMENICI. Mr. Leader, before you leave the floor, let me congratulate you and thank you for your remarks. I do not know whether I thank you for the part that was partisan, but perhaps somebody will do that. Let us exclude that for a moment and say the Senator is absolutely right. There is no way to control the deficit of the United States without controlling health care costs, and that means the expenditure in our budget.

But there may be no way to have sustained economic growth if we do not control the other health care costs, also. They are already twice as large as any in the world. Japan is 8 percent of GNP. We are 12. We cannot continue that. And his observation that the runaway costs have to be controlled is indeed the problem, right to the heart of it.

Frankly, the majority leader should know that we had an alternative in terms of how we control this runaway budget. We could have taken just the number, the function that has health care in it and said, in the next 2 years let us gradually get it down to a level that is reasonable.

We could have done that. But what we have found, in 10 years of reviewing entitlements, that about every 5 years, when you look back at entitlements that you did not think were growing rapidly, somehow or another they turn out to be going wild.

Frankly, we did not, in this amendment, do what you have said we did. We took a bulk number for all of the mandatory entitlements and added them all up, and we said that number is going to continue to grow for all of them combined into 1993 and 1994, as if nothing was done. And in 1995, we reduced the total by an amount necessary to bring that within—every new case is taken care of, inflation is added on, the program is left intact, and we said 2 percent on top.

So you will know that we were not too far off, that did not even require any cut. In fact, zero in 1994. We were giving Congress 2 years to look at the entire package. There is no sequester in this bill.

So this letter where the Congressional Budget Office says how veterans are going to get hit cannot be true. It is speculation. In fact, it says "on each program of a sequester resulting from the proposal not yet complete." That is what it says.

Mr. SASSER. If the Senator will yield, does not your proposal refer to an enforcement mechanism?

Mr. DOMENICI. Not a sequester.

Mr. SASSER. I suggest that the Senator might review that proposal.

Mr. DOMENICI. We will be glad to.

Mr. SASSER. It did refer to an enforcement mechanism, and——

Mr. DOMENICI. We will be glad to do that.

Mr. NUNN. Will the Senator yield?

Mr. SASSER. I say that on page 38 it says, "provides a mechanism"—talking about growth—"provides a mechanism to reduce the growth of spending for mandatory programs except Social Security, if such mandatory spending exceeds the cap."

So if that is the case, Mr. President, whether you call it a sequester, or a mowing machine, or what, there is going to have to be a way to enforce it.

Mr. DOMENICI. We should look at a mechanism to achieve that. That is what it says. We are going to give the

committees an opportunity to look at a mechanism to control this.

I say to the majority leader that I am absolutely convinced—and this is just my opinion—that had we said exactly what we have said here, and taken all of the entitlements and mandatories, except the health care ones and said to the Senate, do to them what we are suggesting we do to the entire package, the argument would have been: Why them? Maybe not by the distinguished majority leader, but no doubt, people would have said: Why them?

They would have had an argument on Medicare that it supposedly pays for itself, or an argument on Medicaid. We ought to save money on Medicaid.

So we, in good faith, said put them in one group and let the Congress decide how to control them within this definition of expenditures.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I appreciate that. I anticipate that would have been the argument. My point is this: The rising cost of health care in American society threatens not just the Government, it affects every American business.

It affects every American family. I have traveled all over this country for the past 2 years talking about health care, and business after business after business tells me—and I am sure other Senators—it is the single fastest-rising cost, the single greatest problem they have. Family after family after family is confronted with this tremendous increase.

Let me just cite one figure. Volumes of figures exist, but one makes the case. In 1980, the average cost per family in America of health care was $2,600 a year. In 1990, it is $6,500 a year. And the Bush administration has just recently projected that by the year 2000, it will be $14,000 per family per year—$14,000 a year, for each family in our country—on average. That is an unsustainable rate of increase.

My point is that we have to attack, control, and reduce the overall cost of care throughout our society, not just for the programs that are funded through insurance provided by the Government. I think that is the greatest challenge we face. I think it is, therefore, the most difficult challenge that we face.

Mr. DOMENICI. I do not disagree. I agree.

Mr. MITCHELL. It is what we must do, and I hope very much we do it this year. I am going to try very hard to do it.

I am determined to see that we get legislation brought to the Senate floor, and that we have votes on it. I cannot predict what the outcome will be. I hope we pass a meaningful program, and I hope it becomes law. I think this debate has made that clear beyond any doubt.

It seems to me it is no longer a disputable assertion that the root cause of our problems here is these rising health care costs. That is what we have to address and what I hope we will address.

I yield the floor.

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

Mr. NUNN. Mr. President, will the Senator yield 2 minutes?

Mr. DOMENICI. I yield off the resolution, or whatever I have the time on; the amendment or the resolution.

Mr. NUNN. Mr. President, again I find myself agreeing with about 95 percent with what the majority leader said. He is absolutely right about health care and about it going beyond the budget.

I had a small business group come to see me the other day. It happened to be the printing industry in Georgia. They came to see me to demonstrate the point that it is pervasive in terms of effect beyond the Federal Government.

The particular industry's cost of health care was $3,700 a year. They paid the premiums for their employees. If you take the wage increases of their employees over the last 10 years, and the health care growth, if you project it out on the same line we are on now, by the turn of the century, the health care cost of the average employee with a family of four in the printing industry will exceed the total annual salary of those people. So they would not be able to eat, sleep, or buy anything, just based on the health care costs. That is the crash program we are on.

The majority leader is absolutely correct, I think, in 95 percent of what he said. But the 5 percent he is absolutely incorrect on is the fact he says if this proposal passes, rural hospitals will close down. The majority leader has to assume, to make that statement, that nothing is going to happen on health care. He has to assume that his plan is not going to pass; there is going to be no reform and no cost control between now and 1995. Otherwise, this proposal would not have the effect he has described.

So that is a worst-case assumption, and that assumption is exactly why we are proposing this amendment, so it does not come into reality.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, if I could just respond, I appreciate the Senator's comments. Obviously, the human ability to predict future events is very limited. We all recognize that none of us knows what circumstance will exist in a month, let alone in a year or a decade.

I do know this: That we have in our State 40 hospitals. I have visited every one, most of them several times. And I come from a State with a relatively large land area and a sparse population; no big cities, a lot of small towns. Our hospitals are hanging by a thread.

Mr. DOMENICI. That is correct.

Mr. MITCHELL. Our rural hospitals are just about at the end of their ability to function, and in a State with incomes less than the national average, with the number of Medicare-eligible and Medicaid-eligible persons higher than the national average, the reimbursement levels under Medicare and Medicaid are crucial to the survival of these institutions.

And in our State, we have no proprietary for-profit acute care hospitals. These are all community based, nonprofit institutions, able to function only because of the tremendous dedication of many volunteers, and people who contribute of their time and effort and money to enable them to keep going.

My only point is that if we now have any significant or drastic reduction in reimbursement levels without some alternative way to deal with this problem, then these institutions are going to have to close. We have had closures already. And whenever I meet with hospital officials, they constantly bemoan what they call the Medicare shortfall, which is the rate at which Medicare reimbursement falls below their actual cost of service to admit eligible beneficiaries.

I hope I am wrong, and I hope my prediction does not come true. And I hope very much that we are going to have to act. Because we have this rickety health care system from which, I should add, we derive enormous benefits.

We concentrate the debate on what is wrong; it is appropriate and natural in human affairs. There are tremendous benefits in the American health care system that have to preserve, although we have to bring the costs under control. It is now close to 13 percent of the GNP. The administration and others project it is going to double, to 26 percent in the next century, if we do not do something about.

That is unsustainable. Our society cannot maintain it. Our families cannot survive it.

I thank the Senator for his comments, and I accept the point he made.

I yield the floor. I must go now.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, does the Senator want to ask a question?

Mr. WELLSTONE. The Senator from Rhode Island is anxious to speak. This would only be a question.

I wonder, given the discussion I heard, whether the Senator from New Mexico would find acceptable the fol-

lowing amendment that I am thinking about proposing:

The Domenici amendment shall not be effective unless and until the President submits, the Congress enacts, and the President signs a comprehensive health care reform measure that includes a strong and effective cost containment program.

I ask the Senator, because it seems to me that is what we are really talking about. I wonder what his reaction would be about that.

Mr. DOMENICI. That is not what we are talking about. I do not believe I would accept that amendment.

Mr. WELLSTONE. I will wait until later on, then.

Mr. DOMENICI. Mr. President, I am going to yield 5 minutes to Senator CHAFEE. But while the leader is here, I wanted to say I do not believe that we are unaware of the fact that we only have a portion of the health care within the Government programs.

But I would say what I had in mind is the fact that 80 percent of the health care or more is in some way touched by the Federal Government; that is, when you take the tax deductions and all of those items, plus what we pay for, we are up around 80 percent. So I thought we had most of what we would be looking at.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I yield it off the resolution.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to address the remarks made by the distinguished majority leader while he is here. To the best of my knowledge, that is the first time I have heard the distinguished Senator make his invitation, certainly to me and to the others on this side, to come forward with him to arrive at a component solution of this health care problem.

This is something that the administration is eager to do. When I asked the Secretary of HHS, before the Finance Committee: Would you join in an effort with the Democrats in the Senate to try and find a solution to this problem, he said yes.

So, to the majority leader, I say three cheers; four cheers in fact. We accept your invitation, and I will relay it to Dr. Sullivan whenever you want to sit down. And let me say that I do not view this problem as having all of the difficulty that many do, because as I previously stated, there are at least 10 points of commonality to the program we have, to the program the majority leader has, and to programs others have.

Is that going to solve every problem under health care? But it is going to take us a long way in that direction, it seems to me. And, by the way, these points of commonality are not exactly the same. The Senator's proposal on medical liability reform, for example, is different from the one we have. And the administration indeed has a bill on that very subject. So we can make real progress this year, and I will be there whenever you want to meet.

I might say to the majority leader that he did this with great success in connection with the Clean Air Act. If he remembers, the administration did not introduce a clean air bill in the Senate. And as I recall the situation, they had proposals which they introduced, as I recall, in the House.

Mr. MITCHELL. Mr. President, if I might, my recollection is—will the Senator yield—my recollection is distinctly different. The critical occurrence in the clean air bill was the President submitting a bill to Congress.

Mr. CHAFEE. There is no question that the critical point was the President supporting clean air legislation. There is no question about; no question.

As I recall it, the President did not have a bill in the Senate, but the majority leader may be right.

But there is no question that the catalyst—and I said this many times, and I give the majority leader credit—the catalyst for going somewhere on the clean air bill was the majority leader.

So I do not see why we have to say, well, the President is not giving us leadership so we cannot go anywhere. I do not agree with that. No. The Senate stands as an independent body with all kinds of prerogatives. And so let us do what we can. If it does not succeed in the other body and with the administration, so be it. At least we can go somewhere. So I await the invitation to dance.

Mr. MITCHELL. Mr. President, I thank the Senator.

I have said before we are going to proceed with or without the President. We welcome his participation. We welcome the Senator's participation. I will extend an invitation to the Senator at the earliest opportunity to get together to talk about this issue.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. CHAFEE. Mr. President, I agree that the amendment by the Senator from New Mexico may not be the best way to proceed. There may be a better way. But it is going somewhere, it is proceeding.

Mr. President, I point out that what is destroying our ability to take progressive action in the whole series of domestic programs, whether it is health care, whether it is education, or whether it is the environment, is the fact that the deficit is consuming so much money. This year, we will pay $200 million interest. Unless we do something about these deficits, we are not going to get to first base with respect to our domestic problems. At least this is an effort. Is it perfect? Probably not. If somebody has a better way of doing it, let us hear it. I must say I have a lot of concerns with it.

Those on the floor have talked about doing something about those who are better off. But if we did anything in connection with employer deductibility of health insurance premiums, for example, or changing their treatment as tax-free fringe benefits—there would be an uproar and it would not get anywhere.

I know that there are those who have said that this comes down too hard on the health care group, on Medicare or Medicaid. Hopefully this legislation will be a catalyst to make some real programs in those particular areas.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I have already stated my view on the resolution itself. I do not believe it wise or appropriate to have a cut in programs that are not increasing beyond the rate addressed by the resolution because health care costs are rising at a rate that is beyond the resolution. Why should we cut compensation for disabled veterans because health care costs are out of control?

Accordingly, Mr. President, I believe that if we are going to proceed with this resolution, then the Senate and each Senator should express his or her view on every one of the so-called entitlement programs. The use of the word "entitlements," while commonplace, is not fully accurate; the use of the words "mandatory programs." We should be talking about the specific programs: veterans compensation, farm price supports, foster care and adoption assistance, military retirement, unemployment compensation, food stamps.

Accordingly, Mr. President, it is my intention, on behalf of Senator SASSER and myself, to offer a series of amendments so that Members of the Senate will vote on every single one of these programs. I think that is the only fair and appropriate thing to do. I think it enables a Senator to make clear his or her position with respect to each one of these programs. Do we feel that veterans benefits should be cut?

Mr. NUNN. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, I will yield for a question without yielding the floor.

Mr. NUNN. The majority leader makes a point about those programs that are growing over the rate of inflation. As one of the authors of this amendment, I offer the majority leader this proposition: Why do we not take all the programs that are not going to go over inflation and amend them one by one, and we could do that on a voice vote, and take those that are growing over the rate of inflation, which the

majority leader indicates are primarily in the medical area but that is not the only area, and then have just one vote.

This proposition will apply to those growing over the rate of inflation. That would address the majority leader's problem. It would solve the problem and save the Senate the time of having to vote on all those amendments. And it would knock out everything in the entitlement programs that is not growing over the rate of inflation.

Mr. MITCHELL. Mr. President, that would also avoid the political accountability of a vote on the record of each specific program. I think we are going to proceed down this road. My preference is that this resolution be withdrawn, that we can proceed to finish the budget resolution. I think this has been an extremely useful debate. I think we focused in on the problem. But if the resolution is not to be withdrawn, then I believe, and I will insist, that the Senate vote on every single one of these programs.

Mr. NUNN. I do not know what the primary author may want to do on this. My advice would be that on all those programs not growing over the rate of inflation, we would all vote "yes" and accept the amendments. We can have a rollcall vote if the majority leader would like to spend several hours on rollcalls. And then we get down to those that are growing over the rate of inflation, and I would vote "no" on those. I do not know how other Senators may vote. That would be a complete accountability, if the majority leader wants to do that.

What I was trying to offer was a shortcut to that so that we could get down to the real question, and that is whether we want to control, in some fashion, the growth of those that are growing over the rate of inflation.

Mr. MITCHELL. Mr. President, if I still have the floor I wish to reply to the Senator.

The PRESIDING OFFICER (Mr. REID). The majority leader has the floor.

Mr. MITCHELL. Just so there is no misunderstanding, I do not agree with that approach. I made very clear I think it is wrong to say you are just going to cap those Government health programs, because, while that will have some effect here, it will not affect health care costs overall in our society. It will result in massive cost-shifting and cause severe dislocation in those institutions which service a large number of Medicare- and Medicaid-eligible persons; that is, the rural hospital in poor areas that I think will be devastated by this. But I think, if we are going to vote, if the Senator says he wants to vote to exempt all of these other programs, we ought to have that opportunity, and I think it ought to be on the record.

Mr. NUNN. Will the majority leader yield?

Mr. MITCHELL. Yes, for a question.

Mr. NUNN. I was not suggesting that the majority leader join in voting affirmatively on those programs that are out of control. What I was suggesting is that we could avoid several rollcall votes by going straight to that procedure. But whatever the majority leader decides will be satisfactory.

Mr. DOMENICI. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOMENICI. I just want to ask a question. Frankly, if the majority leader would permit me to just give a couple of observations, I would like 3 or 4 minutes to go over and see Senator RUDMAN, and I will come back and tell the leader what I will tell him.

Mr. MITCHELL. Certainly.

Mr. DOMENICI. Let me suggest, I have managed budget resolutions for a long time and, frankly, it is not going to do any good, and I say this to my friend from Georgia, it is not going to do any good for him and I to say what we think our amendment and bill does. It is going to do what those people affected thinks it does. And it is going to be a vote—by each Member who votes to keep a group in, it is going to be a vote against them.

I am prepared, or I would not have introduced it, to vote no on taking anything out. I would vote to leave everything in because I understand what I have in mind. I have no difficulty explaining to my constituents what I have in mind. And there will be some angry. But, clearly, when they listen, I will be all right.

But I do not know that I want to put 50 or 60 Senators, or 40, on record, especially since we are only trying to set in motion here, a process that would require the committees to take a look at all this and come up with some approach, and have Members vote on a sense-of-the-Senate, things that we really were not going to carry out.

The PRESIDING OFFICER. Will the Senator withhold? The Chair informs the Senator from Maine that the time has expired on the amendment. There is time, of course, with the bill.

Mr. DOMENICI. I do not intend——

Mr. MITCHELL. Mr. President, without losing my right to the floor I ask unanimous consent that the Senator from New Mexico be permitted to continue for 2 minutes, without my losing right to the floor.

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

Mr. DOMENICI. So I will shortly, if the majority leader would do me the privilege of either putting us in a quorum or using time in such a way that I would in no way be prejudiced, I would like to go with Senator NUNN, my principal sponsor, to see Senator ROBB and Senator RUDMAN and we will return in about 5 minutes and we will give you our answer.

Mr. MITCHELL. Mr. President, I of course believe we should accommodate the very reasonable request by the Senator from New Mexico.

Accordingly, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the majority leader withhold that suggestion for a quorum, momentarily? Will someone yield me 2 or 3 minutes?

Mr. SASSER. Mr. President, I yield the distinguished President pro tempore 5 minutes off mine.

Mr. BYRD. Mr. President, before the distinguished Senator from New Mexico and the distinguished Senator from Georgia leave the floor, I hope they will carefully consider and accede to the suggestion by the distinguished majority leader that the resolution—that this amendment be withdrawn. Let me toss an oxymoronic morsel onto the stage of discussion right at this point—to use one of Jackie Gleason's phrases, "how sweet it is" that, at last, we seem at last to be getting away from the splendiferous floccinaucinihilipilifications, in which we have engaged during these last several days. By that I mean the self-flagellation and the partisan missile throwing that we have lately witnessed on this floor and that we seem to be so caught up in all across this country as we head into a Presidential campaign.

The exercises that we have witnessed seems to have caught and engrossed the fascination of the press. We all seem to be engaged with the current rash of imbecilities that we have heard tossed around. At last we are getting around to debating something that deals with the basic problem confronting our country.

I want to compliment those who sponsored the amendment for their having, at least, called it up. And the distinguished Senator from New Mexico has gotten the unanimous consent of the Senate to withdraw his amendment. I hope he will do that because if there is anything among the several things that one can say about this debate thus far, it is that this is clearly a matter which demands the attention of the committees and Members of the Senate in a careful, thoughtful, sane, dedicated way rather than just calling up amendments on the spur of the moment here in the Senate solely to make some partisan gain.

I congratulate the Senator from Texas and I agree with him that this is a matter that needs to be dealt with in the way that he has suggested. There need to be committee hearings and we need to get at the underlying, basic causes that are driving the deficits through the ceiling.

I congratulate the majority leader and agree with him that a basic problem is the runaway cost of health care.

He has indicated a willingness, not only a willingness but an intention to see that, in due time, this matter is brought to the floor in an orderly way and that it is going to be debated and

acted upon. But there is one other thing I will say in closing. I disagree with the distinguished Senator from Rhode Island. We cannot do this by ourselves. We all know what the Presidential veto pen can do. This is something, Mr. President, that is so deep, so permeating and so complicated and so filled with political mine fields that we need the leadership of the man in the White House. We will never get anywhere if we do not have the President's leadership.

It is going to take tough, courageous leadership. Because there is going to be pain in the solution. It needs to be comprehensive and carefully wrought.

We have seen over the past years how those who are the wealthiest people in this country have benefited the most by the 1981 tax cut. We have also spent vast resources on military programs, and to some extent that was probably necessary. But these have taken away from the Nation and its people and our children and their children—the resources that are so necessary if we are adequately to deal with the infrastructure concerns that so many of us have expressed, and other concerns as well.

So, in summation I would say let us take this resolution down. I have had my belief in the U.S. Senate renewed today. Because I have seen Senators on both sides of the aisle trying to come to grips with a very difficult, complex question. But the approach is going to have to be—as the leader and Senator BENTSEN and others have said—it is going to have to be a comprehensive approach. And there will be plenty of pain and no political gain. But we owe it to the Nation, and we are going to have to forget about being Democrats and Republicans and put the Nation first. And the man in the White House is going to have to lead. We are not now seeing that leadership. We are not getting it.

We cannot hope to solve this problem all by ourselves because the President will just sit down there and throw pot shots at the Congress.

That is what we are seeing now. That is the White House's program as the President goes into this election: Bash the Congress! And the press is eating it up. They love it! But that is not getting at the roots of the problem.

Mr. President, I thank the Senators who have introduced the amendment. It generated good debate. I thank those who have opposed it, and for good reason. I commit myself to my leader's service when he attempts to wrangle—when he attempts to deal with this difficult problem. I thank all Senators for their patience and contributions to the debate.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I would like to accommodate the Senator from New Mexico who made a request. I understand he said he just wants a few minutes to meet. I think he is entitled to that courtesy of 5 minutes. Might I suggest, Senators from Nebraska and Rhode Island want to speak? The situation we are in is that the regular order, as I understand it, would be a vote on this resolution. If we are going to proceed with it then I am going to offer amendments to it. I do not want to preclude anybody from speaking, but I do not want to lose my right to offer the amendments if they are going to proceed.

So the time is running against the resolution. If the Senators from Nebraska and Rhode Island wish to speak, I would like to do it in a manner that does not deprive the right I now have, which is to offer the amendment, if they are going to go forward.

Mr. EXON. Could I inquire of the majority leader, in full recognition of the Parliamentarian's discretion, if the majority leader could ask unanimous consent that the Senator from Nebraska be recognized for not to exceed 10 minutes without losing the majority leader's right to the floor?

Mr. MITCHELL. Mr. President, would it be agreeable if I simply ask consent that no motions or amendments be in order until I am re-recognized? Then Senators can continue to address the subject and we can accommodate the Senator from New Mexico and the Senators from Rhode Island and Nebraska and the time will continue to be charged against the bill.

Mr. DOMENICI. I would wholeheartedly agree if you would consider for time purposes that that situation be for 10 minutes and then Senate MITCHELL will be recognized.

Mr. MITCHELL. Fine.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Tennessee for a comment or question.

Mr. SASSER. May I remind the majority leader that the Senator from Minnesota has been on the floor since early this morning wishing to be recognized, and we have been maintaining an informal list. He had risen to the top of it and he is followed by Senator EXON. I just make that comment in an effort to accommodate all Senators.

Several Senators addressed the Chair.

Mr. DANFORTH. Who has the floor?

The PRESIDING OFFICER. The majority leader.

Mr. DANFORTH. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DANFORTH. I wonder, Mr. President, would it be possible, perhaps, to set this amendment aside and take up some other amendments so we can get some votes out of the way right now? This has been going on for 4 hours today. There have not yet been any votes and people are rescheduling planes. I think Senator DECONCINI has an amendment that I do not think will take very long but will require a vote and maybe we could in the next hour or so get off a few votes and then put this off until later in the day.

Mr. MITCHELL. Mr. President, if I might respond, it is, of course, a logical and plausible request. But since the Senator from New Mexico, who would necessarily be required to give that consent is right now in a meetings, and has indicated it is only going to take a few minutes, on whether he will withdraw or proceed with this amendment, I think we can probably save more time ultimately by bringing that to a conclusion right now. I think if it is withdrawn, it is my hope that the managers will be able to proceed to a prompt wrapup and disposition of this resolution to accommodate the Senator from Missouri and others. I think under the circumstances since we are very close to bringing this to an end, it would be best to permit it to do so.

Mr. CHAFEE. Mr. President, I wonder if the majority leader would yield me 2 minutes?

Mr. MITCHELL. Mr. President, I yield to the Senator from Rhode Island 2 minutes and I ask I be recognized at the conclusion of his remarks.

The PRESIDING OFFICER. There is presently a request pending that there be 10 minutes during which period of time there be no amendments or resolutions offered.

Mr. MITCHELL. Or motions.

The PRESIDING OFFICER. Or motions.

Mr. MITCHELL. I renew that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, Winston Churchill said on many occasions he had opportunities where he had been required to eat his words, and overall he found them rather delectable. I am in a similar situation, Mr. President. I suggested to the majority leader that I thought the administration never introduced a bill on the Clean Air Act. I was corrected in a very thoughtful manner by the majority leader. It turns out not only did the administration introduce a bill in August 1989, but I introduced it for them.

So, Mr. President, I publicly eat my words on that particular issue.

I would like to finish my remarks, if I might, Mr. President, by saying that I demur from the suggestion of the distinguished President pro tempore in his thought that we would not be able to get very far without the administration's leadership on this matter. I think we can. Again, I refer to those 10 points of commonality. Will we arrive at perfection? Probably not. But this year we do not have much time. We have a basis, something to work on, something that all of us subscribe to.

So I urge the majority leader on in his efforts and will cooperate in every fashion I can. I think we can really get something constructive done this year, Mr. President.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader controls the time. There is 8 minutes remaining.

Mr. MITCHELL. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. WELLSTONE. Mr. President, I really had intended earlier to give a rather lengthy statement about all this. I do not now think it is necessary. So much has already been said.

Let me just go on the record by making two points. One, it is very interesting that I heard from the Governor's office in Minnesota, a Republican Governor, and what I heard was, "Please oppose these caps." Their concern is just what has been stated on the floor which is that these caps, without having any real effective cost control with health care costs, means that we could run into a terrible amount of trouble back in our State. This would be especially true in our rural communities with Medicare reimbursement. What you would have happen—the majority leader spoke about this—would be cost shifting. That is to say, either doctors or hospitals are going to take care of people under Medicare or Medicaid and cover their costs, or they will not be able to, given the inflation and discrepancy between reimbursement and inflation, and they will just shift those costs.

Mr. President, let me one more time repeat the language of an amendment which I will offer unless the pending amendment is withdrawn. This would be after the other amendments and votes that the majority leader mentioned. My amendment would be as follows:

> The [Domenici] amendment shall not be effective unless and until the President submits, the Congress enacts, and the President signs a comprehensive health care reform measure that includes a strong and effective cost containing program.

I really believe everybody should be for that amendment I just read, because I have heard the people who are for the caps say, "You are right, we have to control health care costs." I have heard those of us who have opposed those caps say that we do not want to do that unless we first control the costs—where we are really paying the price.

So it seems to me this is a nice kind of marriage made in heaven. I will offer this amendment unless the pending amendment is withdrawn.

Mr. MITCHELL. Mr. President, I yield 6 minutes to the Senator from Nebraska.

Mr. EXON. I thank the majority leader.

Mr. President, I have been listening with very keen interest to the remarks of the authors of this amendment, my friend and colleague from Georgia and my friend and colleague from New Mexico. I thought it was rather interesting to hear them tell about the storm of protest that is developing across the country to their amendment by a variety of sources, and I notice that both the Senator from Georgia and the Senator from New Mexico and I probably correctly say there are an awful lot of people who have been misled, who simply do not understand what they are trying to do, and false statements are being made against their amendment.

I thought it was so apropos because it happens to be that this Senator was in extended debate with those two same Senators yesterday and the day before that to try and make a modest reduction in the defense budget. At that time, all kinds of false statements were made on the floor of the Senate, not by people who might not be informed, but by people in this body who should be informed before they make remarks on the floor of the Senate.

In that regard, I must rush to protect, though, the veracity and the good common sense and the honesty and integrity of my good friend from Georgia, SAM NUNN. Never once during that debate, where he was on one side of the debate and I was on the other, did the chairman of the Armed Services Committee make any false accusations with regard to the intent or with regard to the numbers advanced for cutting the defense budget, as this Senator from Nebraska tried to do.

Likewise, I would like to come to the defense of the Senator from New Mexico. Although I did not remember or maybe hear all of his comments in opposition to the little budget cut from national defense that he joined Senator NUNN in posing, I do not believe that the Senator from New Mexico ever falsely implied that the Senator from Nebraska was doing things as other Members of this body on both sides of the aisle got up on the floor and said that EXON could not make his cuts without affecting manpower.

So I know that the Senator from Georgia and I know what the Senator from New Mexico is going through. But, Mr. President, here we go again. Some of the same who gave the country the Gramm-Rudman law—and its promise to balance the Federal budget—reconstituted under a new banner, have unveiled the latest device designed to exclusively and primarily take the heat off this body to cut the Federal budget now.

How many times must this body walk down the path of self-delusion before it learns that there are no painless cures, no secret bullets, and no magic machines which will reduce the Federal budget deficit next year or the year after that or even into the next century.

Mr. President, I urge my colleagues to not be fooled again. There is only one way to reduce the Federal budget deficit and that is to make hard choices.

If the Congress and the President want to reduce the deficit, there are really only three hard choices that we have to recognize and make. We can cut spending, we can raise revenues, or we can do a combination of both. There are no other ways to do it. There is nothing more nor less that we can do without encompassing those three key factors.

All these options that I have recommended—and if we are ever going to do anything, we are going to have to do it now—are not going to evade pain and sacrifice, pain and sacrifice this body apparently is unwilling to undertake as evidenced yesterday when this body shrunk by 4 or 6 votes away from a very limited reduction in the national defense expenditures.

I daresay in my public and private business life I have balanced more budgets than most either in this or the other body and, therefore, I clearly speak with some proven experience in this regard.

Less than 24 hours ago, to harken back to yesterday once again, this body demonstrated to the Nation that it was unwilling to make one of those hard choices when it rejected the Exon amendment to reduce defense spending by a mere $3.5 billion in 1993 outlays and $7.6 billion in budget authority below the resolution.

Now, those who passed on the opportunity to grab real deficit reduction right now with that vote yesterday attempt to shift attention to their latest, fanciful invention to cap entitlements.

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

Mr. EXON. May the Senator ask for an additional 4 minutes under the previous agreement?

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senator be permitted to continue for 4 minutes as under the previous agreement with the time charged equally.

The PRESIDING OFFICER. That will be the order.

Mr. EXON. As modest as the Exon amendment was, to make those cuts in 1993 as I have outlined, if the Exon amendment had been adopted at least over the next 5 years the Exon amendment alone would have reduced the deficit by $36.2 billion.

I guess Senator SARBANES said it well earlier. The combined savings of the Exon amendment, which was defeated yesterday, and the tax fairness bill recently vetoed by the President meets

and exceeds the fiscal year 1997 savings produced by this amendment that we are now discussing.

If anyone needs to be convinced of the folly of this amendment, all they need to do is look at the history of the 1980's After the Senate passed up the real deficit producers such as the freeze on budgets as Senator HOLLINGS and I offered year after year, the Senate brought into being a false and foolish promise of the Gramm-Rudman law and the budget summit agreement.

I would remind my colleagues that President Reagan promised a balanced budget in 1983. He failed. Gramm-Rudman promised a balanced budget in 1991. It failed. The son of Gramm-Rudman promised a balanced budget by the end of 1993. It failed. The much ballyhooed budget summit agreement promised a balanced budget in 1994, and it failed.

The new better mousetrap known as the entitlement cap will fail as well. The cynicism of this amendment is blatant. On page 2 of the talking points explaining this amendment, there is an admission that the entitlement cap will not even go into effect until 1994 and the sequester would not trigger until 1995. With a nudge and a wink, the code message to Senators is, "Do not worry; be happy. Let us just go on as we have in the past."

With this amendment, Members will tell their constituents, "I know I voted against the Exon amendment and other deficit-reducing amendments affecting your favorite program because I supported the entitlement cap which will save some really big dollars some time after the year 2000." Talk about budget odyssey.

The real danger in this amendment and the past amendments of its type is it holds out the false hope to the American people that this new Popsicle will not melt to sugar water outside of the freezer. A popsicle is a popsicle. The false promises of Gramm-Rudman 1 and 2 and the budget summit agreement allowed this body to fake rather than force action. The political establishment in Washington has delayed now for a decade facing this crisis with the Federal budget deficit.

The Nation can not and will not wait. The deficit is eating the economy alive and the American people know it. The public is smarter than we think. They will not buy this magical invention, however well intentioned.

The very architecture of the amendment works against serious deficit reduction. There are basically two entitlement programs which are really growing out of control and they are Medicare and Medicaid. They will continue their rampant growth until we act on health care. If these programs exceed the cap as they certainly will, reductions will be taken out of all entitlements, even those which have remained well below the cap. Such a system will discourage any chairman from seeking timely reductions in non-Medicare and Medicaid entitlements for fear of facing a double whammy, once when the cut is taken and again when the sequester is implemented. This amendment will also encourage members to pad their favorite entitlement programs to protect them from the expected cut.

In addition, what about those programs like agriculture which have already given at the office? No program has been reduced over the 1980's as has agriculture. Is it fair to cut agriculture because medical costs are increasing? The entitlement cap will further decimate American agriculture and hurt the State of Nebraska.

This amendment should be taken down for further study at least. It is nothing less, as structured, than a raid on the trust funds. As the Senator from Maryland so aptly pointed out last night, many of the so-called entitlement are programs supported by a dedicated source of revenue. Programs such as Medicare and railroad retirement have trust funds and sources of revenues to support their operations. If the entitlement cap works, it will further swell the trust funds so that they can be used to fund the day-to-day operations of the Federal Government just as the Social Security trust has been embezzled over the last several years.

This amendment should at least be taken down at this time. I yield the floor.

Mr. MITCHELL. Mr. President, I am advised that the distinguished Senator from New Mexico is continuing his consultation with his colleagues. I believe it appropriate and fair to honor his request.

Therefore, I ask unanimous consent——

Mr. DECONCINI. Will the majority leader yield before he asks the question?

Will the majority leader now entertain setting this aside for 10 minutes to take an amendment on which we will ask for a rollcall vote—I do not think anybody will object to that—while they continue to discuss whatever it is they are discussing?

Mr. MITCHELL. Mr. President, that would require the consent of the Senator from New Mexico, who is at this moment engaged in a meeting.

Mr. DECONCINI. May we try that?

Mr. MITCHELL. I would prefer to resolve the issue of his amendment one way or the other. However, we will get to that shortly.

Mr. President, to accommodate the request——

Mr. CHAFEE. Mr. President, I was going to suggest that the Senator from Arizona and I might briefly speak on the Senator's amendment.

Mr. MITCHELL. The Senator from New Mexico has reentered the Chamber.

Mr. DOMENICI addressed the Chair.

Mr. MITCHELL. Mr. President, I have the floor. I am pleased to yield to the Senator from New Mexico for whatever comments he wishes to make while retaining my right to the floor.

Mr. DOMENICI. I have conferred with the other three sponsors of the substitute. It is our desire to proceed.

We understand there is the first amendment. We were told what it would be, removing the disabled veterans from the amendment in terms of excluding them. It would take them out; is that correct? Would that be the first amendment?

Mr. MITCHELL. Mr. President, since the Senator's resolution is a substitute, I believe it is amendable in two degrees.

What I was going to do is proceed, and to have the Medicaid exemption to be the first-degree amendment; and then the veterans' compensation to be the second-degree amendment, on which we would vote; and then to have each of the provisions thereafter and vote on each of them in sequence. So we will end up having to vote on every single one of the provisions.

Mr. DOMENICI. Might I ask a parliamentary inquiry? If the majority leader filed the two amendments in sequence, as he just indicated, and we took a vote on the first amendment and the amendment succeeded, does the previous unanimous consent granting the Senator from New Mexico the privilege of withdrawing the entire substitute still apply?

The PRESIDING OFFICER. The Senator from New Mexico would still have the right to withdraw his amendment.

Mr. DOMENICI. We have conferred, and unless they want to say something, Senator NUNN is here, and I think we want to proceed with the first sequence of votes that you have discussed.

Mr. MITCHELL. Mr. President, I would like to inquire and ask for the attention of the Senator from New Mexico. My understanding is that once I offered the first-degree amendment, there would then be 1 hour of time to be used or yielded back before the second-degree amendment, on which the first vote would occur, would be in order. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MITCHELL. Mr. President, I am going to offer the first-degree amendment. I would suggest, in the interest of accommodating as many Senators as possible, that since we have already had more than enough debate on this, that in just a few minutes, we proceed to the offering of, the yielding back to the time, offering the second-degree amendment and the vote on that, if that is agreeable to my colleagues on the other side of the issue.

Mr. DOMENICI. I am agreeable at this moment that all time be yielded back immediately after you file the

first-degree amendment, and that we do that right now; then we will take a minimum of time on the second amendment.

Mr. NUNN. Mr. President, might I suggest that we have something like 6 minutes equally divided, and then proceed to vote on the majority leaders amendment? It would be my view that this vote on the first amendment will basically forecast what will happen on the other amendment; that we do not need to put the Senate through the agony of voting on 12 or 13 separate amendments.

I do submit, I said a little while ago, I would be willing to exclude those programs going below the rate of inflation, because in my opinion they will not be affected, anyway. This is one of those programs. But since this is going to be the only vote, I think this is a very important symbolic vote. I think it determines whether the Senators are willing to begin excluding everything, which is what we have done for the last 10 years. And so, therefore, I will vote no on the amendment as a symbol of what is wrong with the procedures we have around here now; but not as if there is any reality that there is going to be any real cut in disabled veterans. I do not believe anyone believes that.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order for me to offer the first-degree and the second-degree amendments; that there then be 12 minutes of debate, equally divided, on the second-degree amendment; that it be in order for me now to request the yeas and nays on the second-degree amendment; and that the yeas and nays on the second-degree amendment occur after the use or yielding back of the 12 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1778 TO AMENDMENT NO. 1777

Mr. MITCHELL. 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 Maine [Mr. MITCHELL] proposes an amendment numbered 1778 to amendment No. 1777.

On page 38, line 17 of the amendment, insert before the period the following: ", except that Medicaid shall be exempt from the cap and the cuts required by the mechanism described in this section.".

AMENDMENT NO. 1779 TO AMENDMENT NO. 1778

Mr. MITCHELL. 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 Maine [Mr. MITCHELL] proposes an amendment numbered 1779 (to amendment No. 1778).

At the end of the matter proposed to be inserted, insert the following: ", Veterans' Compensation shall be exempt from the cap and the cuts required by the mechanism in this section".

The PRESIDING OFFICER. The Senate is aware that this time is 12 minutes' debate: 6 controlled by the majority leader; 6 by the Senator from New Mexico.

Who yields time?

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 1 minute for the purpose of making a parliamentary inquiry.

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

Mr. BYRD. Mr. President, as I recall, the distinguished Senator from New Mexico [Mr. DOMENICI] earlier got the unanimous consent of the Senate that he might subsequently withdraw his amendment in the nature of a substitute. The Senate gave him that consent.

If his amendment is later amended, in my judgment, he does not have consent of the Senate to withdraw his substitute, as amended.

My parliamentary inquiry is, Does the unanimous-consent request that he earlier presented, and to which the Senate acceded, cover a later eventuality in the case of the substitute amendments having been amended?

The PRESIDING OFFICER. The Chair has ruled that it does.

Mr. BYRD. I have to complain about the response of the Chair. In the future, I would like to know precisely what we are doing when we give a Senator the right to withdraw his amendment. Because once he starts down the road of having that amendment amended, the Senate might not want him to withdraw it.

I merely make that point, hoping that by making it on the RECORD, it will indicate how sometimes we act thoughtlessly on such requests.

I had earlier urged the distinguished Senator to withdraw this amendment, feeling that we had indeed accomplished something by generating a debate about the real problem, something that is real.

Now, I have no objection if the Senate wants to go ahead and vote on these things. I suppose we will. In my view, it is not a ruling by the Chair; it is just a response to a parliamentary inquiry. So there is no precedent here. I will not make a point of order, but I disagree with the Chair's position.

I think the Chair is wrong, and I say that with all proper respect to the Chair. The present occupant happens to be one of my favorite Senators.

With all due respect, I disagree with the Chair 100 percent.

Mr. MITCHELL. Mr. President, to obviate the possibility of this occurring as a precedent, I am going to suggest to the Senator from New Mexico that if we reach the point where he seeks to withdraw the amendment, that he then ask unanimous consent for it and not rely upon the prior authority.

Just so we do not create a problem in this regard, why do we not proceed with the debate now, and resolve that when we get to it?

Mr. DOMENICI. I am glad to do that, if you will assure me that at that moment I will get unanimous consent.

Mr. MITCHELL. I am going to try very hard to get unanimous consent.

Mr. DOMENICI. I will use 10 seconds and say to my friend from West Virginia, I ask unanimous consent—and perhaps I was not as clear as he would like, but I clearly intended this circumstance, that if that amendment was adopted, I could still withdraw it. I think the Senator will agree if I did that, the Senate could grant unanimous consent.

Mr. BYRD. No; I do not agree with that. It could, yes. But I do not agree that it should.

Mr. DOMENICI. All right.

Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Five and a half minutes.

Mr. DOMENICI. I yield 2 minutes to the Republican leader.

AMENDMENT NO. 1779

Mr. DOLE. Mr. President, I want to commend the four Senators who have offered this amendment. I think we have to make a choice if we want to follow the path of Neil Kinnock in the welfare state, as they tried to do in Great Britain, without success. Or we can understand that we have responsibilities to disabled veterans and their families and everyone else, their children and grandchildren, and vote against the second-degree amendment.

The disabled veterans are just as concerned about the overall economy and about opportunities for their children and grandchildren, and for themselves, as anyone else. If we go down the list and exempt this group, this group, and this group, nobody is left; everybody is going to be exempt. Maybe we ought to examine Congress, too. That might be the best vote. Maybe we can exempt Congress, and we can have a real interest in how the vote came out. I think we are doing precisely the right thing. It is never too late to be responsible.

Mr. DOMENICI. Would the Senator from Georgia like 1 minute?

Mr. NUNN. Yes.

Mr. President, I have said probably all I need to say. I will vote against this amendment. I think there is no group in America that has done more for their children and grandchildren, indeed our country, than the disabled veterans. I do not believe the people who sacrificed so much for our country want to see our country go down economically, in spite of the fact that we have been able to be protected militarily. That is what we are talking about here.

The disabled veterans, and all veterans, had reductions below the cost of living from 1980 to 1990. They would not be affected by this amendment in any way. But if we start down this road of exclusion, we have made it clear that we will not only exclude those below the rate of inflation by growth, but every single program one by one. This determines, in my view, whether Senators would vote to exclude all of the others, leaving nothing but an empty shell. I will vote no.

Mr. ROBB. Mr. President, this vote is a gut check. As the Senator from Georgia has explained, it is a symbolic vote; it is not about veterans. As someone who spent 34 years affiliated with the armed service, and who has enormous respect for the veterans, paralyzed and others, that is not the point. If we are serious about deficit reduction, this is the way we send a message that we are serious about it. That is all this is. Otherwise, our ability to come to grips with the fiscal irresponsibility of the Federal Government is going to remain suspect.

I hope that those who understand the importance of the vote will vote their conscience and understand that the consequences of being held accountable by a number of groups that we support in many, many ways, will have to flow, if we are going to be serious about reducing the deficit.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. DOMENICI. I yield to Senator RUDMAN.

Mr. RUDMAN. Mr. President, I think the Senator from Virginia put it just right. This is not a vote about cutting veterans' benefits. This is a vote about taking a hard look at all of the entitlement programs to ensure that fairness exists and that their growth is curtailed where it can be fair to those who, in fact, may not be in need.

Unquestionably, disabled veterans have a need. I can say to the disabled veterans that I know—a number, I might add, Mr. President, I have known since the moment of their disability—that we are not setting forth a program to cut their benefits. We are setting in progress a program to save the standard of living for their children and their grandchildren and, to a larger degree, to ensure that as the year 2000 approaches, this country is fiscally able to discharge its responsibilities to those veterans.

Mr. DOMENICI. Mr. President, I reserve 1 minute.

Mr. SASSER. Mr. President, who is in control of the time?

The PRESIDING OFFICER (Mr. ADAMS). The majority leader.

Mr. SASSER. I ask for 2 minutes.

Mr. MITCHELL. I yield 2 minutes to the Senator from Tennessee.

Mr. SASSER. Mr. President, this proposal before us has been hastily put together. It is ill-conceived. There have been no hearings on this proposal whatsoever. The proposal was not brought before the Budget Committee in the ordinary course of business for that committee to discuss. The proposal was presented to the body yesterday, really, by way of a press conference. That is where the chairman of the Budget Committee became aware that this particular substitute was coming before us.

With regard to the veterans here, let us look at what is happening to outlays for veterans' pensions. Outlays for veterans' pensions are steady from 1992 through 1994. This is not an area, or mandated area, of the so-called entitlement programs which is growing. Yet, this proposal subjects them to jeopardy as a result of the explosion in health care costs.

Under the CBO numbers, some have said this does not cut veterans' programs, but under the numbers produced by the Congressional Budget Office, veterans' compensation by 1997, under this proposal, would be cut by $1.408 billion. Veterans' pensions would be cut by $353 million. It does cut veterans. And I think, in the name of fairness, they ought to be excluded.

LETTERS IN OPPOSITION TO ENTITLEMENT CAPS

Mr. President, all Members should be aware of the depth of opposition to this entitlement cap proposal. I have received letters from Senate authorizing committee chairmen as well as a long list of organizations expressing unreserved opposition to this meat axe approach to controlling entitlement growth.

I would like to submit these letters for the RECORD, but let me just outline some of the major points:

Senator BENTSEN, chairman of the Finance Committee, recommends that we reject any form of entitlement caps. He points out that the reason entitlements are growing so fast is health care costs and that the real problem is not in Medicare and Medicaid, but in the larger health system of this country. He further points out that: "attacking health care costs through cuts in Medicare and Medicaid alone will only increase costs in the private sector."

Senator KENNEDY, chairman of the Labor and Human Resources Committee, has also sent me a letter protesting the entitlement cap proposal. He makes similar arguments about controlling health care costs throughout the system—not cutting programs serving the poor.

Senator CRANSTON, chairman of the Veterans Affairs Committee, has written a letter to Senator DOMENICI vigorously opposing entitlement caps. He points out that it could mean totally unfair cuts in Veterans programs including compensation, pensions, vocational rehabilitation, and GI bill educational benefits. We have also received a strongly worded letter from the Veterans of Foreign Wars of the United States protesting the proposal.

Senator GLENN, chairman of the Committee on Governmental Affairs, has also registered his opposition to an entitlement cap proposal which would subject civil service retirement to sequester as the result of growth in other direct spending.

Mr. President, I have letters here from groups representing the elderly, including the American Association of Retired Persons and the National Council of Senior Citizens; from groups representing children, including the Children's Defense Fund; from education groups, from representatives of labor organizations, from several hospital and other health care groups, and from many agricultural organizations.

They are all worried about the same thing I am: The entitlement cap proposal, as currently conceived, could force large cuts—through sequester or through a forced reconciliation process—on many programs which are not contributing to the entitlement growth problem. Veterans benefits, child nutrition, Supplemental Security Income, civil service retirement benefits, railroad retirement, foster care, student loans, and farm price supports to name a few.

Mr. President, I would like to submit a list of organizations who have contacted us in opposition to the entitlement cap proposal, and their letters, for the RECORD.

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

ORGANIZATIONS OPPOSED TO THE ENTITLEMENT CAP PROPOSAL

American Association of Retired Persons.
National Council of Senior Citizens.
National Committee To Preserve Social Security And Medicare.
Children's Defense Fund.
Families U.S.A.
Committee For Education Funding.
United States Student Association.
Food Research and Action Center.
American Federation of Government Employees, AFL-CIO.
National Treasury Employees Union.
National Federation of Federal Employees.
National Association of Letter Carriers.
Veterans of Foreign Wars of the United States.
Paralyzed Veterans of America.
American Legion.
Disabled American Veterans.
American Medical Association.
American Hospital Association.
American Health Services Institute.
American College of Emergency Physicians.
American Protestant Health Association.
Association of American Medical Colleges.
Catholic Health Association.
Federation of American Health Systems.
National Association of Children's Hospitals and Related Institutions.
National Association of Private Psychiatric Hospitals.
National Association of Public Hospitals.
National Association of Rehabilitation Facilities.
Voluntary Hospitals of America.

National Cotton Council of America.
U.S. Rice Producers' Group.
National Association of Wheat Growers.
National Milk Producers Federation.
National Farmers Organization.
American Postal Workers Union, AFL–CIO.
National Conference of State Legislatures.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Senate Committee on the Budget, Washington, DC.

DEAR JIM: I am writing to discuss the proposal in the President's budget which would create "caps" on the rate of growth of Federally funded entitlements such as Medicare, Medicaid, Guaranteed Student Loans and Veteran's Compensation payments. As you know, Senator Domenici, your Ranking Member of the Senate Budget Committee, introduced a Budget Resolution that contains an even more stringent version of entitlement caps.

Under these proposals, the rate of growth in aggregate entitlement spending would be capped each year. The maximum growth rate would be limited to the inflation rate plus the growth rate in the number of beneficiaries plus an additional percentage. Under Senator Domenici's plan, this additional percentage would be phased out to zero by 1997. According to Senator Domenici, if enforced, this would produce program cuts of $53 Billion between 1995 and 1997.

There is no question that entitlements as a class of programs are growing very rapidly. But the reason that entitlements are growing so fast is that the health care entitlements—Medicare and Medicaid—are increasing extremely rapidly. The Congressional Budget Office, in An Analysis of the President's Budgetary Proposals for Fiscal Year 1993 estimates that between 1992 and 2002, spending for Medicare and Medicaid will increase from 3.4% of GDP to 5.9% of GDP. During the same period, all other entitlements will decrease as a percentage of GDP.

However, the problem as we all know is not really in Medicare and Medicaid, but rather in the larger health care system of this country. Between 1975 and 1990, the growth rate in per enrollee costs was 2 percent higher for private insurance than for Medicare and Medicaid. Furthermore, according to a study of the Medicaid program done last summer under the auspices of the Office of Management and Budget, 60% of the growth in Medicaid program costs between 1980 and 1990 came from overall health care inflation in the economy. The problem of explosive health care costs is expected to continue: between 1992 and 1997, the inflation rate for overall medical costs is estimated to be twice that of high as the inflation rate in the economy as a whole.

Yet an entitlement cap marks all entitlements for cuts. This approach unnecessarily puts at risk programs that assists some of the most vulnerable Americans—the elderly, the blind, the disabled, veterans, children and rural families. It could affect the beneficiaries of Aid to Families with Dependent Children, Food Stamps, Guaranteed Student Loans, Veterans Programs, Farm Price Supports, the Social Services Block Grant.

Clearly we can best restrain the cost of Medicare and Medicaid growth if we can control costs in the overall health-care system. Indeed, Dr. Robert Reischauer, the Director of the Congressional Budget Office indicated in testimony before the Senate Finance Committee in April of last year that attacking health care costs through cuts in Medicare and Medicaid alone will only increase costs in the private sector. This will occur because lower payments under Medicare and Medicaid will cause health care providers to shift costs to employers and other private payers.

Therefore, while a crude "cap" on entitlement programs may reduce the Federal Government's expenditures, such caps will do nothing to arrest the underlying growth in health care costs and in fact, may exacerbate cost increases in the private sector. This effect will be especially problematic for small businesses whose health care costs are increasing at a rate far in excess of their ability to purchase insurance. The most effective way to accomplish the goal of containing growth in health care spending is to control costs in the health care system as a whole. I look forward to working with you towards this important objective. I recommend that you reject any form of entitlement caps in the Budget Resolution.

Sincerely,

LLOYD BENTSEN,
Chairman.

COMMITTEE ON LABOR
AND HUMAN RESOURCES,
Washington, DC, April 6, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR JIM: I am writing to express my strong opposition to the arbitrary type of caps on entitlement spending proposed by President Bush and Senator Domenici.

While entitlement spending is projected to increase faster than the consumer price index and the budget as a whole in coming years, the vast majority of the "excess" increase in entitlement spending is due to Social Security—which is excluded from the current cap proposals—and to increases in Medicaid and Medicare.

Medicaid and Medicare are growing faster than other components of the economy because national health care costs are out of control. In fact, if Medicare, Medicaid, and Social Security are excluded, entitlement spending over the past decade has increased at a slower rate than the C.P.I. Between 1994 and 1997, if Senator Domenici's cap were in effect, Medicare and Medicaid would be $68 billion over the cap, and all other entitlements would be $15 billion below the cap.

Capping entitlement spending could have one of two results—both unacceptable. First, it could lead to arbitrary and unfair reductions in entitlements that are growing at a reasonable rate. Congress should not cut programs to feed hungry adults and children, to educate college students, to provide cash assistance to millions of elderly, disabled and other citizens living in poverty, to help poor families, and to meet retirement commitments to the military and civil service, all because health care costs are out of control.

Second, the cap proposal could lead to harsh and unacceptable cuts in spending on Medicare and Medicaid. At a time when 36 million Americans are uninsured and the number is rising every year, cuts in Medicaid would worsen an already disastrous situation and place further burdens on already hard-pressed state budgets.

Deeper cuts in Medicare would be equally unjustified. Today, Medicare already pays hospitals 10 per cent less than the cost of caring for elderly patients. As a result, the gap between Medicare payment levels and private payment levels continues to widen. In general, every dollar cut out of the Medicare program means a dollar in additional costs for average citizens with insurance and for businesses, as health care providers seek to recover Medicare underpayments by shifting costs to other citizens.

The solution to excessive entitlement spending is not to cap entitlements that are not out of control. It is not to slash Medicare and Medicaid while escalating costs in the health care system as a whole continues uncontrolled. In my view, the only realistic alternative is a program of comprehensive health care reform that will bring cost increases in the entire system down to a reasonable level. Until such reform is achieved, an entitlement cap proposal is not a true saving to the government—it is an unfair burden on the elderly and the poor.

I look forward to working with you on this issue, and I intend to oppose any arbitrary entitlement cap proposal.

Sincerely,

EDWARD M. KENNEDY.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, March 27, 1992.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

Dear Pete: You have announced that you are planning to propose a program of direct-spending caps under which overall limits on mandatory spending (other than Social Security benefits) would be enforced through sequestration. As Chairman of the Veterans' Affairs Committee, I am deeply concerned that this proposal would subject certain veterans entitlement programs to sequestration as the result of growth in other direct spending.

The precursor of your proposal appears to be the concept put forward in the Office of Management and Budget Director's Introduction to the President's FY 1993 Budget (page 1–15) to cap aggregate mandatory spending "at population-plus-CPI" plus a specified percentage allowance (either 2.5 percent or, if comprehensive health reform has been enacted, 1.6 percent). The concept is expressed in legislative form in title XLVI of S. 2217, a bill Senator Dole and you introduced on February 7, 1992, at the request of the Administration.

As shown in the March 3, 1992, analysis of S. 2217 prepared by the Director of the Congressional Budget Office (copy enclosed), using the 2.5-percent allowance above population and inflation factors, projected increases in non-VA direct spending in FYs 1993 and 1997 would result in sequestrations of $1.168 billion and $15.317 billion, respectively.

However, I understand that you are contemplating the use of a smaller and declining percentage allowance—2 percent for FY 1993, 1.5 percent in FY 1997, 1 percent in FY 1994, 0.5 percent in FY 1995, and zero percent in FY 1996. I am advised that, using these percentages, the sequestrations would be $3.3 billion in FY 1993, $5.3 billion in FY 1994, $11.4 billion in FY 1995, $20.8 billion in FY 1996, and $50.9 billion in FY 1997.

From the standpoint of veterans programs, these sequestrations would mean significant and totally unfair cuts in service-connected-disability and survivors compensation, needs-based disability and death pensions for wartime veterans and their survivors, vocational rehabilitation for service-disabled veterans, and GI Bill educational benefits. I cannot imagine why you and the President believe that exposing these top-priority veterans programs to automatic reductions is good policy. In my view, the proposal is

grossly unfair and would run the risk of defaulting on this nation's most fundamental obligations to those who made great sacrifices in answering the nation's call throughout a century marked by frequent armed conflicts.

For these and many other reasons, Pete, I urge you to reconsider this entire proposal. I agree with you that the deficits must be reduced and that strong and creative efforts must be made to control the health-care costs that are driving up the costs of Medicare and Medicaid and placing adequate health care beyond the reach of millions of Americans. However, we should not try to accomplish these goals through budget gimmicks that seek to force savings by threatening arbitrary cuts in programs that address our solemn commitments to veterans and their families and the basic needs of other Americans.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

U.S. SENATE,
COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
U.S. Senate,
Washington, DC.

DEAR JIM: It is my understanding that Senator Domenici is planning to propose a program of direct-spending caps under which overall limits on mandatory spending (other than Social Security benefits) would be enforced through sequestration. As Chairman of the Senate Governmental Affairs Committee, I am deeply concerned that this proposal would subject Civil Service retirement to sequestration as the result of growth in other direct spending.

I believe that the concept for this proposal was first put forward in the President's Fiscal Year 1993 budget to cap aggregate mandatory spending "at population-plus-CPI" plus a specified percentage allowance (either 2.5 percent or 1.6 percent). The President's budget proposed eliminating the protection from sequestration provided to the cost-of-living adjustments Federal civilian and military retirees receive. However, it proposed retaining the protection from sequestration for Social Security COLAs. The concept was expressed in legislative form in S. 2217, a bill Senator Dole and Sen. Domenici introduced on February 7, 1992, at the request of the Administration.

As I have said time and time again, I do not believe that one group of older Americans, simply because they chose public service, should be deprived of the inflation protection that other older Americans receive from Social Security. I believe that the Congress recognized this when it amended the Gramm-Rudman Budget Deficit Reduction Act in 1986 to exempt the COLAs of Federal retirees from sequestration in the same way that Social Security COLAs are exempt.

Moreover, I understand that Sen. Domenici is now contemplating the use of a formula more restrictive than that proposed in the President's budget. I am advised that the use of a smaller and declining percentage allowance—2 percent for FY 1993, 1.5 percent in FY 1994, 1 percent in FY 1995, 0.5 percent in FY 1996 and zero percent in FY 1997, would result in estimated sequestrations of $3.3 billion in FY 1993, $5.3 billion in FY 1994, $11.4 billion in FY 1995, $20.8 billion in FY 1996, and $50.9 billion in FY 1997.

From the standpoint of Civil Service retirement, these sequestrations would mean significant and totally unfair cuts in retiree inflation protection. In the last Congress, Sen. Domenici introduced S. 416 which was referred to the Senate Governmental Affairs Committee. That measure stated that Federal civilian and military retirees would receive their full cost-of-living adjustments in Fiscal Years 1990 and 1991. I do not understand what has changed so dramatically that these same retirees should now have their COLAs subject to sequestration.

Sincerely,

JOHN GLENN,
Chairman.

AARP,
Washington, DC, March 27, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The President's FY 1993 budget includes a number of proposals to change the budget process. Of special concern is the proposal to put a cap on the growth of mandatory (entitlement) spending. This type of proposal calls for growth in entitlement spending to be limited to a specific arbitrary level. If spending in any entitlement program exceeds this arbitrary ceiling, reconciliation is triggered. If reconciliation fails to bring spending into line, a sequester of entitlements results.

Any proposal to place an arbitrary cap on mandatory spending is a direct attack on Medicare and Medicaid because the growth in health care costs generally and in the federal budget has far exceeded general rates of inflation. These types of proposals do nothing to control ever-increasing health care costs. Since the early 1980's, Congress has subjected Medicare to a series of cuts. These efforts have slowed the rate of growth in Medicare. But, despite these efforts, it has not been possible to keep the rate of growth in federal health programs near the general inflation rate.

A mandatory cap would simply require ever deeper cuts in Medicare without any regard for the overall effectiveness of the program. The attached chart shows the magnitude of cuts required over the next five years (FY 93–FY 97) if the President's proposal (limiting growth to the consumer price index plus 2.5 percent) were to be adopted. Almost $33 billion in cuts would be necessary, over and above the $43 billion through FY 95 required by the Omnibus Budget Reconciliation Act of 1990. Other proposals with lower caps would only make these cuts worse. Cuts of this severity would endanger access and quality care for all Medicare beneficiaries.

AARP urges you to oppose any proposal to arbitrarily limit entitlement spending. They are nothing less than a thinly veiled attack on Medicare. Further, mechanistic budget "reforms" do nothing to address the real need for systemic health care reform.

Sincerely,

HORACE B. DEETS.

NATIONAL COUNCIL
OF SENIOR CITIZENS,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR CHAIRMAN SASSER: The National Council of senior Citizens (NCSC), on behalf of our five million members and 5,000 clubs and Councils nationwide, urges you to oppose Senator Domenici's proposal to place a budget cap on entitlement programs. We find this to be the most outrageous attack on the elderly we have seen in years.

This proposal could do serious harm to such critical programs as Medicare, Medicaid, veterans' benefits, civil service, military and railroad retirement, food stamps and SSI. All of these are vital programs for the elderly which NCSC has long worked to defend. Moreover, once Congress has acted to cap trust fund financed programs, such as Medicare and railroad retirement, we foresee targeting Social Security for the next cap.

Senator, the National Council of Senior Citizens urges you to do all that is in your power to stop this assault on the elderly, the poor and the most vulnerable of our society. Thank you.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE,
SOCIAL SECURITY AND MEDICARE,
Washington, DC, April 9, 1992.

Hon. JIM SASSER,
Chairman, Senate Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: On behalf of the nearly five million members and supporters of the National Committee to Preserve Social Security and Medicare, I urge you to vigorously oppose the proposal to impose a cap on entitlement spending which will apparently be offered by Senators Domenici, Rudman, Nunn and Robb during Senate consideration of the budget resolution.

An entitlement cap would be simple another attempt, like the unsuccessful automatic sequestration procedures under Gramm-Rudman-Hollings, and the procedures enacted in the Budget Enforcement Act of 1990, to somehow bring the budget under control without addressing the real underlying causes of the budget deficit.

The notion that entitlement spending is responsible for the deficit turns out to be wrong when the issue is carefully considered. The Congressional Budget Office concluded in this year's report to the Budget Committees that total spending on entitlements grew rapidly as a percent of Gross Domestic product (GDP) from the early 1960's but "most of the increase occurred by 1975." In fact over the past decade, all of the components of entitlement spending, except for Medicare and Medicaid during the 1980's is attributable primarily to spiraling health care costs and increases in the beneficiary population and merely mirrors tends in the entire health care sector. If a cap were imposed on entitlements, uncontrolled increases in medical costs will force cuts in benefits to seniors and the disabled and some of the additional costs of uncompensated care will be shifted to the private sector.

America's seniors have made many sacrifices over the years for the goal of fiscal responsibility. I strongly urge you to oppose arbitrary spending caps for entitlement programs. Congress must address this nation's health care crisis in a comprehensive and fair manner.

Sincerely.

MARTHA A. MCSTEEN,
President.

CHILDREN'S DEFENSE FUND,
Washington, DC, April 1, 1992.

Hon. JIM SASSER,
Chair, Senate Budget Committee, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my dismay that some members of the Senate are considering placing a cap upon

entitlement programs. Children, our nation's future, will be the primary victims of such an arbitrary rule. Children already face enormous burdens and obstacles in our country, and the entitlement programs for them are already the stingiest and most limited. Placing a cap upon entitlement programs will only exacerbate these problems. At a time when we have opportunities to make a real difference for our children, it is unacceptable, both morally and politically, for Congress to pass such an arbitrary rule.

The Congressional Budget Office lists the following programs which benefit children and their families as covered by an entitlement cap: Foster Care and Adoption Assistance; Medicaid, Unemployment Compenation, Food Stamps, Family Support (AFDC); Child Nutrition programs, Supplemental Security Income (SSI); and guaranteed student loans. These are the very same programs which are rescuing children and their families during this current recession. It is the very fact that they are not capped which has provided the much-needed, if wholly inadequate, "safety net."

The costs of health care are the source of the large entitlement spending increases. But capping Medicare and Medicaid is the wrong answer at a time when access to health care for the elderly and the poor is becoming harder. The nation needs a national strategy to guarantee access to health care while restraining costs in the entire health sector. Capping just Medicare and Medicaid without attacking the problems of the health care system will not control health care inflation, but it will shift costs and reduce access to quality care for the most vulnerable part of the population. Including an across-the-board cap on other entitlements that have not been growing except when driven up by recession or other crises will mean that basic programs desperately needed by children and their families, those listed above, would be cut simply by rising health costs. This is illogical and inhumane. It effectively undermines all of the very laudatory purposes which the Congress has in mind when it created these programs.

I repeat, the plight of children in America is worsening. There are now over 13 million children in our country living in poverty. Over 100,000 of our children go to sleep each night homeless. An entitlement cap will arbitrarily wreak additional havoc in vulnerable lives which need support and stability from their government. For all the same reasons that you do not want Social Security under the cap, children's programs should not be subject to a cap.

If I or my staff can be of assistance to you, please do not hesitate to contact me.

Sincerely,

MARIAN WRIGHT EDELMAN,
President.

COMMITTEE FOR EDUCATION FUNDING,
Washington, DC, April 2, 1992.

DEAR SENATOR: It is our understanding that some of the budget proposals that will be offered today in the Budget Committee would not only cut funding for all domestic discretionary programs, including education, but would further jeopardize the future of this nation by imposing another set of arbitrary mechanisms to take the place of responsible prioritizing.

The education, nutrition and health needs of our nation's children cannot continue to take a backseat to arbitrary budget caps that are used as a substitute for political will. Therefore, the member organizations of the Committee for Education Funding (CEF) urge you to reject: (1) any budget plan or amendment that would place child nutrition and student loan programs at risk by setting a cap on all entitlement spending; (2) any proposal that cuts education or that extends the current separate budget caps on defense and nondefense spending that would result in future education cuts; and (3) any amendment that would strike a reserve fund for education and children's initiatives or that would require cuts in other education programs to pay for these initiatives.

At the same time that hundreds of economists are calling for an immediate investment in education to ensure the nation's long-term economic growth, the Administration and Congress have preserved the status quo by maintaining separate caps on defense and domestic spending, negating the possibility of a substantial investment in education this year. Extending these caps beyond FY 1993 will further delay vital reinvestment in America and nullify Congress' ability to respond to ever-changing world events.

Imposing a third cap on the budget process—a cap on entitlements—would threaten to deny school lunches to our poorest children and loans to needy students to continue their education. Capping entitlements could result in a sequester on all mandatory programs—including programs that have seen little to no real growth—without regard for the overall effectiveness of the program or the needs of our children.

The Committee for Education Funding agrees that deficit reduction is a priority. However, to sacrifice our children's educational opportunity in the name of deficit reduction is not only unconscionable, but unsound economic policy. We can no longer mortgage our children's future nor can we deny them a future of their own.

We urge you to vote against any budget proposal that would adversely affect the national investment in the education of our children.

Sincerely,

THE CEF EXECUTIVE COMMITTEE.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, April 2, 1992.

Re Caps on Entitlement Programs.

Hon. JIM SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: The American Medical Association previously expressed concern over the Administration's FY 1993 budget proposal to cap entitlement programs. Even before the editorial that appeared in the March 30 *Washington Post*, we pointed out that such an action would only continue an unfortunate trend of effecting arbitrary cuts in human service program funding that can only lead to reduced access to needed medical services.

The results of arbitrary caps are seen each year in state Medicaid programs that simply stop paying for health care services provided at the end of the year. This type of action undercuts the very foundation of entitlement programs that are designed to address human needs and to assure that funds will be available to meet those needs.

While we certainly recognize that there are aspects of entitlement programs that need change, a cap only delays the essential step of careful examination of each program and action to redirect these programs so they truly operate to aid those individuals in need of government support. The American Medical Association urges adoption of a rational approach to address the growth of entitlement programs, rather than adoption of an arbitrary and potentially harmful cap. We are eager to work with the Congress and the Administration in the process of a realistic review of entitlement programs to determine if current format should be retained. Such careful examination and studied action will prove to be the only effective and humanitarian way to reduce entitlement spending.

Sincerely,

JAMES S. TODD, M.D.

AMERICAN HOSPITAL ASSOCIATION, AMHS INSTITUTE, AMERICAN COLLEGE OF EMERGENCY PHYSICIANS, AMERICAN PROTESTANT HEALTH ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, CATHOLIC HEALTH ASSOCIATION, FEDERATION OF AMERICAN HEALTH SYSTEMS, NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS AND RELATED INSTITUTIONS, NATIONAL ASSOCIATION OF PUBLIC HOSPITALS, NATIONAL ASSOCIATION OF REHABILITATION FACILITIES, VOLUNTARY HOSPITALS OF AMERICA,
APRIL 1, 1992.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: As organizations representing health care providers, we strongly urge you to reject any attempt to place caps on Medicare, Medicaid, or other entitlement spending during your consideration of the fiscal year (FY) 1993 budget resolution.

Imposing caps on Medicare and Medicaid spending, as well as other entitlements, would arbitrarily restrict spending on health care without any rational basis and avoids dealings with the reasons for health care cost inflation. By failing to address the underlying causes for the growth in health spending, this proposal would aggravate, rather than relieve, the defects inherent in our health care system. Spending caps would not spur necessary fundamental change in the health delivery system so that it is more patient-centered, but would simply lock in the status quo without any real reform.

Over the years, Medicare and Medicaid have seriously underpaid most of America's providers for the care they render. Further cutbacks could only have an adverse impact on the ability of providers to continue offering the same level of high quality care.

Furthermore, placing caps on Medicare and Medicaid spending would force providers to shift more costs to privately insured patients in order to break even.

While we recognize the difficulties of achieving meaningful deficit reduction, we do not believe that placing arbitrary caps on entitlement spending should be a basis for accomplishing this end. Neither will it result in sound health policy. We, therefore, strongly urge you to oppose any effort to place caps on entitlement spending as you develop your FY 1993 budget resolution.

Sincerely,

(The Above-Listed Health Care Organizations.)

FOOD RESEARCH & ACTION CENTER,
Washington, DC, April 1, 1992.

Hon. JAMES SASSER,
Chairman, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our opposition to proposed annual caps on entitlement spending. As an organization dedicated to alleviating hunger and poverty in this country, these entitlement caps will have devastating implications on our agri-

cultural and nutrition programs. The Congressional Budget Office estimates that the Domenici entitlement cap proposal will prevent approximately 12 million children currently receiving nutritional benefits from getting a nutritionally adequate diet. We urge you to defeat all attempts to cripple vital anti-hunger programs by placing entitlement caps on them.

A cap on entitlement programs is not the answer to growing program costs. Most experts agree that the root cause of the increased costs lies in the area of health care. Health care costs are spiralling at such alarming rates that even if caps are proposed, health care costs will exceed their cap. The answer is health care cost containment, not caps on nutrition programs for low income, vulnerable populations.

In a year when reports documenting childhood hunger continue to demonstrate the need for stronger anti-hunger programs, we feel the direction that the administration and some supporters of a cap are taking is ill-advised. Families facing hard times must be able to depend upon strong and viable food assistance programs. A cap on the food stamp and child nutrition programs would inevitably lead to program cuts resulting in the exclusion of eligible participants and benefit reductions.

We urge you and the members of your Committee to vigorously oppose all efforts to place these egregious caps on entitlement programs. We appreciate and applaud your continuing efforts to safeguard our nation's anti-hunger and poverty programs. Thank you.

Sincerely,

EDWARD M. COONEY,
Deputy Director.
ELLEN S. TELLER,
Staff Attorney.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO,
Washington, DC, April 1, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR CHAIRMAN SASSER: On behalf of the 700,000 federal workers represented by the American Federation of Government Employees, AFL-CIO, and the millions of U.S. citizens served through the federal programs we administer, I urge you to reject outright any and all attempts to impose a cap on entitlement spending during the Senate Budget Committee deliberation of the fiscal year 1993 budget resolution.

Most of the citizens who would be affected by such a cap are among the poorest and most disadvantaged in our society. Medicare, Supplemental Security Income, and Aid to Families with Dependent Children would be placed under the proposed cap. In addition, veterans, military and federal civilian retirement programs would be subject to reductions. Many of these retirees receive minimal benefits. If the proposed entitlement cap is enacted, soon lawmakers will argue that in the interest of fairness, we must cap social security as well. The administrative budgets of all these entitlement programs could also be cut under this proposal. In many federal agencies where AFGE members work such as the Health Care Financing Administration, the Department of Veterans Affairs, and the Social Security Administration, to name only a few, we are already laboring under crushing workloads. Reductions in spending for entitlement programs will serve only to stifle the delivery of benefits which American citizens need and deserve. In addition, cuts in Medicare and Medicaid will only lead to cost shifting to another sector of the health care payment pool. What America needs is genuine health care reform, not entitlement caps.

Americans depend on these vital federal programs for their basic support. It is unfair and unconscionable to demand that they continue to sacrifice. At the same time, the entitlement cap proposal would provide for additional tax cuts of $27 billion in 1993—increasing by $27 billion the amount that would have to be cut from entitlement programs.

AFGE members too are worried about the deficit. But we recommend that it be reduced not by cutting benefits and earned entitlements to the needy, unfortunate and average working and middle class citizens, but by reforming the nation's health care system, reducing defense expenditures in a rational, thoughtful manner and by increasing federal revenues through higher and more progressive taxes on corporations and the wealthy. If you have any questions, please contact Beth Moten or Chapin Wilson in AFGE's Legislative Department at (202) 639-6413.

Sincerely,

JOHN N. STURDIVANT,
National President.

THE NATIONAL TREASURY EMPLOYEES UNION,
April 2, 1992.

Hon. JIM SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: It has come to our attention that proposals may be offered in the Budget Committee to cap entitlement spending. We ask you to oppose such amendments.

NTEU, as the exclusive representative of 150,000 active and retired federal employees, is particularly concerned about the impact of entitlement caps on federal retirees' cost of living adjustments, which would fall under such a cap. We are also very concerned that if an entitlement cap is adopted, but not met, sequestration will be the result. Federal employees have spent too much time already under furlough and RIF threats because of the possibility of sequestration. We urge you not to set up sequestration stand-offs for the future by enacting entitlement caps.

We look forward to working with you to fashion a fair and workable budget resolution.

Sincerely,

ROBERT M. TOBIAS,
National President.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
Washington, DC, April 3, 1992.

Senator JIM SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR CHAIRMAN SASSER: It has come to our attention that proposals may be offered this week in the Senate Budget Committee to place caps on entitlement spending. On behalf of the nearly 150,000 federal employees that we represent, we ask that you and your colleagues oppose these amendments.

The National Federation of Federal Employees (NFEE) has felt the brunt of budget blows over the past eleven years. In fact a recent GAO report indicated that federal employees have taken more than $119 billion in cuts through the 1988 budget cycle. NFEE is particularly concerned that entitlement caps would adversely affect federal retirees' cost of living adjustments. We are also concerned that entitlement cuts that are not met will be followed by sequestration. We urge you and your colleagues to reject any proposals that would impose entitlement caps and create a system that will inevitably result in sequestration.

Sincerely,

SHEILA K. VELAZCO,
National President.

NATIONAL ASSOCIATION OF LETTER CARRIERS,
Washington, DC, April 1, 1992.

Hon. JAMES SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR CHAIRMAN SASSER: It has been brought to our attention that an amendment will be offered to your budget resolution mark, which is designed to cap entitlements.

In reviewing the amendment it appears to us that the proposal would slash entitlements resulting in cuts to active and retired letter carriers' benefits.

As a Member of the Governmental Affairs Committee you are better aware than most, that, historically, every time Congress has ventured down the road to cap entitlements, they reach the end of that road with only us; federal/postal active and retired employees, on board. All the brave talk aside, the political conclusion has always been federal/postal employees and retirees are "getable." Members of Congress have shown themselves to be timid, if not downright frightened, about taking on other so-called entitlement programs.

Federal/postal employees and retirees have endured institutional, pay and benefits cuts, amounting to over $1 trillion over the last 13 years. As a former President of the United States once said, "Here we go again!"

We are, therefore, asking the Members of the Budget Committee to reject this amendment and work for a solution to the budget problem that is equitable.

Sincerely,

VINCENT R. SOMBROTTO,
President.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
April 1, 1992.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: This is written to express the shock and outrage of the 2.2 million member Veterans of Foreign Wars at your announced program to reduce VA Compensation and Pension payments to America's sick and disabled veterans by including them in a program of direct spending caps to be imposed on all mandatory federal spending with the exception of Social Security benefits.

Your proposal would seem to be based upon an Office of Management and Budget concept which was contained in the introduction to the President's FY 1993 budget—and later expressed in legislative form in title XLVI of S. 2217, a bill Senator Dole and you introduced on February 7—to cap *aggregate* mandatory spending so as not to exceed an annually adjusted figure based on the beneficiary population plus the CPI together with a specified percentage allowance. Your proposal would enforce those caps through sequestration.

This would constitute a grievous injustice to our disabled veterans. These sequestrations would necessitate large and totally unfair cuts in service-connected-disability and survivor's compensation, needs-based disability and death pensions for wartime veterans and their survivors, vocational rehabilitation for service-disabled veterans, and GI

Bill educational benefits. It is inconceivable to us that either you or the President would countenance and put forward this plan to subject veterans programs to automatic reductions.

Adding a note of painful irony to this plan is the fact that through the years veteran's programs have grown at a much slower rate than is even called for under your proposal's annual indexing formula. But by treating all mandatory spending as an aggregate you would lump veterans together with those non-veteran programs whose costs have far outpaced inflation, and funding for sick and disabled veterans would be sequestered as well. Veterans lose twice under this scenario, first, because unlike others they have done their part through the years by accepting COLAs that were in line with the CPI; and now, secondly, because their already meager compensation and pension payments would be subject to additional sequestration cuts under your proposal. This would be totally unjust and is at odds with our nation's moral commitment to care for those who suffered and sacrificed so much in order that we might all remain free.

Thus I urge you in the strongest terms, on behalf of the entire VFW membership as well as all of America's veterans, to refrain from pursuing this proposal which would greatly harm America's disabled veterans.

Sincerely,

ROBERT E. WALLACE,
Commander in Chief.

DISABLED AMERICAN VETERANS,
Washington, DC, April 6, 1992.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Disabled American Veterans (DAV) shares your deep concern that should Senator Pete Domenici's proposed program of direct spending caps on mandatory spending become law, it would subject certain veterans' entitlement programs to sequestration as a result of growth in other direct spending programs.

Senator Cranston, as you are well aware, VA entitlements are not a major contributing factor in the every increasing federal deficit. Quite to the contrary. The number of veterans and their survivors who receive service-connected disability and death compensation payments has been on the decline for the past several years. Additionally, the percentage of federal outlays spent on VA benefits and services has been cut in half from 4.4 percent in 1977 to 2.2 percent in 1991.

I also wish to point out that the Omnibus Budget Reconciliation Act of 1990 (OBRA) required VA to reduce spending on veterans' entitlements by $620 million in Fiscal Year 1991 and a total of $3.35 billion through Fiscal Year 1995. To meet these spending reduction requirements, VA was required to: suspend payments to certain incompetent veterans; institute a $2.00 copayment for prescriptions; repeal provisions which permitted reentitlement to survivors' benefits upon termination of a former spouse's or child's marriage; limit vocational rehabilitation to certain service-connected disabled veterans; limit burial benefits to wartime veterans and delay a COLA for service-connected disability and death benefit recipients.

While veterans' benefits were being reduced or eliminated, other federal entitlements were being enhanced. The remarriage provisions for CIA surviving spouses was liberalized and increased protection was being afforded to incompetent Social Security beneficiaries. Suffice it to say, that veterans were not treated fairly under OBRA.

To repeal current sequestration protections afforded veterans' entitlements and once again reduce veterans' benefits—especially as a result of increased spending by other federal entitlement programs—is unconscionable.

Senator Cranston, DAV certainly appreciates your efforts to point out the inequities contained in Senator Domenici's proposed program of direct spending caps and we look forward to your continuing advocacy on behalf of America's services-connected disabled veteran population.

Sincerely,

CLEVELAND JORDAN,
National Commander.

THE AMERICAN LEGION,
Washington, DC, March 31, 1992.

Hon. JIM SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: The American Legion has learned that the Senate Budget Committee is expected to consider within the next several days a proposal which would impose enforceable caps on mandatory spending. It is our understanding that the proposal could lead to cuts in various entitlements, including such veterans benefits as disability compensation, needs-based pension, vocational rehabilitation and GI Bill educational assistance.

Our organization strongly opposes this idea. It appears that the pending plan to impose mandatory spending restraints is the 1992 version of similar initiatives in recent years to control budgetary growth by applying across-the-board cuts. As our organization has stated repeatedly, such cuts fail to consider the merit of individual entitlements. Also, they fail to consider which of those entitlements have contributed most to the burgeoning federal budget. You can be sure that veterans benefit entitlements are not within the budget-busting group.

In particular, we find it incredible one year after Operation Desert Storm that a proposal is being offered to potentially cut GI Bill benefits. This comes on the heels of (1) an administration budget which would make the "up front" cost of those benefits more expensive for the active duty member and (2) an overwhelming Senate vote several weeks ago to increase educational assistance for nonveterans by raising the maximum Pell Grant benefit by 50 percent.

Your attention to The American Legion's views on this matter is deeply appreciated.

Sincerely,

PHILIP RIGGIN, *Director,*
National Legislative Commission.

PARALYZED VETERANS OF AMERICA
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SASSER: On behalf of the members of Paralyzed Veterans of America (PVA), I urge your strong opposition to an effort which would impose direct spending caps under which overall limits on mandatory spending would be enforced through sequestration. While PVA recognizes the importance of controlling growth in federal spending and reducing the growing national deficit, this proposal arbitrarily would subject entitlement programs for the nation's disabled and poorest veterans to sequestration; sequestration that is the result of growth in other direct spending programs. Additionally, this proposal exempts Social Security benefits thereby establishing a gross inequity in the treatment of America's veterans.

The proposal, which we understand will be sponsored by Senator Domenici, Ranking Member of the Budget Committee, is based upon the earlier OMB proposal contained in the President's Fiscal Year 1993 Budget. This earlier proposal would cap combined mandatory spending based on a "population plus CPI" with an established percentage allowance. The newer proposal would establish the cap using a smaller allowance factor.

Both these approaches to controlling mandatory spending are inherently unfair to veterans. Both would force reductions in veterans' benefits due to uncontrollable growth in other programs. To force cuts in compensation for service-connected disabilities and survivors benefits, disability pensions for wartime veterans, vocational rehabilitation and educational benefits is to abrogate the Nation's commitment to the men and women who have served in the Armed Forces.

Again, I urge your opposition to any proposal to establish mandatory spending caps which targets veterans' benefits for reduction while exempting other mandatory programs or which would cut funding of veterans' programs due to growth in other entitlement areas.

Thank you.

Sincerely,

VICTOR S. MCCOY, Sr.,
National President.

NATIONAL COTTON COUNCIL OF AMERICA,
Washington, DC, April 1, 1992.

Hon. JIM SASSER,
Chairman, Budget Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that an amendment will be offered tomorrow during the mark-up on the budget resolution. It would place a cap on total entitlement spending.

The amendment assumes a mandatory cap, effective with Fiscal Year 1994, calculated to permit caseload growth, inflation growth and an additional 2 percent growth. The additional 2 percent growth would phase out to zero by 1997, permitting entitlement programs to grow for caseload and inflation only. Social security would be excluded.

The National Cotton Council is concerned about the impact this proposal would have on agricultural programs. Compared to other entitlement programs agriculture programs differ significantly. They are fluid and respond to changes in weather patterns and global economies. Also, effective farm program operation is contingent on sufficient participation by producers. Upon sign-up each year farm program participants must comply with specific program regulations and planting restrictions including environmental requirements. Spending caps result in further uncertainty about program benefits while strict compliance for eligibility must be met.

Furthermore, economic factors as well as budget obligations are forcing farm program spending to decline while spending on other entitlement programs such as health care has been steadily increasing. With the proposed "spending cap" agriculture programs would be forced to compensate for this increase. This would result in significant reductions in important programs. Furthermore, when projected spending exceeds the "spending cap" the budget committees would be forced to reconcile and cut further to achieve a designated level required by the cap.

During the 1990 budget compromise agricultural programs were forced to assume a

disproportionate share of spending cuts. Agriculture programs are unique, and differ significantly from other programs. They cannot afford any further cutbacks and many are unable to achieve their goals because of under-funding. It is unfair to place them under a specific cap or to ask for further cuts in these programs when the entire agriculture community is already assuming more than its share in deficit reduction.

We believe in reasonable and fair approaches toward deficit reduction, but the "spending cap" proposal is neither. American farmers cannot afford to assume the burden of further cuts nor should they be forced to compensate for runaway spending in other entitlement programs. The "spending cap" singles them out and asks them to give much more than their share. Please consider this when you vote in the Budget Committee tomorrow.

Sincerely,

JOHN MAGUIRE,
Vice President—Washington Operations.

U.S. RICE PRODUCERS' GROUP,
Washington, DC, April 1, 1992.

Hon. TRENT LOTT,
Senate Committee on the Budget, SD-621 Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: We understand that an amendment may be offered tomorrow during the mark-up on the budget resolution that would place a cap on total entitlement spending.

As we understand the proposal, it would impose a mandatory cap, effective with fiscal year 1994, calculated to permit caseload growth, inflation growth and an additional 2 percent growth. The additional 2 percent growth would phase out to zero by 1997, permitting entitlement programs to grow thereafter for caseload and inflation only. Social security would be excluded under the proposal. We further understand that cuts in agriculture (function 350) would be made beginning in 1993.

We are concerned about the impact this proposal would have on the agriculture programs. Farm program spending has been declining since 1986 because of changes in legislation that froze the yield on which payments could be made, reduced the target price by 10%, and disqualified 15% of the eligible acreage from receiving any payments. On the other hand, spending on other entitlement programs such as health care programs has been steadily increasing. Under the proposed spending cap, agriculture programs would be forced to compensate for this increase. When projected spending over-all for the entitlement programs (after eliminating social security) exceeds the spending cap, the budget committees would be forced to reconcile and order cuts in all entitlement programs to achieve the designated level required by the cap. Agriculture would be included, even though it has been cut substantially since 1986 and may not have contributed at all to the increased spending.

During the 1990 budget compromise and previously, the agriculture programs were forced to assume a disproportionate share of spending cuts. Agriculture programs cannot afford any further cutbacks. In fact, most rice producers are barely scraping by and rely on the farm program to continue in business. Their costs of production have been increasing while program benefits have been declining. It is unfair to ask for further cuts in the farm programs when the entire agriculture community is assuming more than its share in deficit reduction.

We believe in reasonable and fair approaches towards deficit reduction, but the proposed amendment is not the means towards that end. American farmers should not be asked to assume the burden of further cuts nor be forced to compensate for spending increases in other entitlement programs.

Sincerely yours,

ROBERT M. BOR,
Washington Counsel,
U.S. Rice Producers' Group.

NATIONAL ASSOCIATION OF WHEAT GROWERS,
Washington, DC, April 1, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: On behalf of the National Association of Wheat Growers (NAWG) I would like to apprise you of our concern regarding the budget decisions you will be asked to make in the next few days.

As you may know, those of us within the agriculture arena believe our sector of the economy bore a disproportionate share of the budget cuts in the 1990 budget agreement. A majority of the $13.6 billion in agriculture cuts fell squarely on the shoulders of program commodities such as wheat. Wheat producers saw their income support slashed via a 15 percent reduction in support acreage from 1990 through 1995. Furthermore, wheat and feed grains producers are slated for a further erosion in income in 1994 and 1995 when the budget agreement will change the way in which deficiency payments are calculated. With this as a backdrop, you can understand why our industry views budget deliberations with a great deal of anxiety.

While wheat growers recognize the need to curb federal spending, we are also adamant that spending decisions be made fairly and equitably. The NAWG is concerned about the specter of an entitlement spending cap as proposed in the President's budget. Our concern is that unless significant reforms are made in the health care arena; spending on those entitlements will force deep cuts in all entitlement areas including agriculture. In essence, farm programs may become the funding mechanism for medicare and medicaid cost overruns.

We thank you for the opportunity to express our views. As a member of the budget committee, we urge you to carefully consider the equity impact of any entitlement cap proposal which may come before you. Agricultural spending bore a disproportionate share of the budget burden in 1990—we fear a spending cap would only serve to ratify rather than rectify the equity problem.

Sincerely,

MADISON ANGELL,
President.

NATIONAL MILK PRODUCERS FEDERATION,
Arlington, VA, April 1, 1992.

Hon. JAMES RALPH SASSER,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As a member of the Budget Committee, you may soon be asked to vote on a proposal that would cap total entitlement program growth, with the exception of Social Security spending. Both the White House and Senator Domenici are developing proposals along these lines.

The National Milk Producers Federation asks you to vote against these proposals, should they come up for a vote before the committee. Adoption of such measures as part of the budget, though non-binding at this time, would establish a precedent that could seriously threaten the public policy goal of the nation's commodity programs—providing all Americans with an adequate supply of reasonably priced, nutritious, wholesome food.

If the Domenici and Administration proposals succeed, politics—not public policy—will dictate the division of the entitlement pie. Health care, the most voracious of these programs, will grow in this constrained environment by consuming dollars normally earmarked for food stamp, child nutrition and agricultural programs.

But food stamp and child nutrition programs have large numbers of powerful and vocal advocates both inside and outside the federal legislature. The political reality is that these programs will be protected. That leaves agricultural programs as the prime source of funding for these other programs. It also means additional assessments on dairy farmers who are already paying a fair share of program costs.

There is a misconception that commodity programs, like the dairy price support program, exist specifically to help producers and are totally funded at taxpayer expense. Dairy farmers also help fund their price support program. Milk producers pay some 25 percent of the $670 million cost of the current dairy program. Sales of dairy products from government stocks further reduce the cost of this program to taxpayers by another 20 percent.

The dairy price support program was designed to guarantee Americans an adequate supply of affordable, nutritious, wholesome milk and dairy products and provide farmers a fair return on their labors. It only takes a trip to the dairy case of the local grocery store to prove the program works.

As business people recently faced with the lowest prices for their product in a decade, dairy farmers understand how difficult it is to operate when revenues shrink and costs climb. But balancing the budget on the backs of farmers, and destroying the programs that ensure the food Americans eat is available in adequate supply at reasonable cost, is not the solution.

For these reasons, the National Milk Producers Federation asks that you vote against efforts to cap entitlement growth at the expense of the public policies that feed the nation.

Sincerely,

JAMES C. BARR, CAE,
Chief Executive Officer.

NATIONAL FARMERS ORGANIZATION,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that an amendment will be offered today on the mark up on budget resolution that would place an additional cap on entitlement spending.

It is our understanding that effective with the fiscal year 1994, entitlement spending would be limited to case load growth, inflation growth and an additional 2% growth. The additional 2% growth would be phased out to zero by 1997 permitting entitlement programs to increase for case load and inflation only. Social security would be excluded.

The National Farmers Organization and National Farmers Union are opposed to this proposal as it would affect agriculture programs. During the 1990 budget compromise farm programs took a very significant and disproportionate cut in comparison to other entitlement programs. As you are aware, the

food stamp program and other nutrition programs administered by USDA have been increasing significantly while farm program spending has decreased by 40% to 50%.

This across the board cap on entitlement spending will result in agriculture taking a further disproportionate share of spending cuts. It is unfair to ask for further cuts in these farm programs when the entire agricultural community is already assuming more than its share in deficit reduction.

American farmers cannot afford to assume the burden of further cuts nor should they be forced to compensate for increased spending in other entitlement programs. The spending cap, in effect, singles them out and asks them to give more than their share. Please give this your consideration as you proceed with the budget resolution.

Sincerely,

NATIONAL FARMERS ORGANIZATION,
GRANT B. BUNTROCK,
Director, Washington Office.
NATIONAL FARMERS UNION,
MIKE DUNN,
Vice President for Legislative Services.

AMERICAN POSTAL WORKERS UNION, AFL-CIO,
Washington, DC, April 10, 1992.

ATTENTION: OPPOSE DOMENICI AMENDMENT TO BUDGET RESOLUTION

DEAR SENATOR: I am writing to urge that you oppose the ill-conceived amendment to cap entitlements.

An entitlement cap would bludgeon programs that are not responsible for the deficit. For instance, the Federal civilian employee retirement programs are estimated to have a surplus of $27.8 billion for Fiscal Year 1993. This surplus will be used to finance the deficit in other Federal programs. In fact, over the past decade, all Federal retirement and disability programs declined as a percentage of Gross Domestic Product from 1.3 to 1.1 percent. In part, this reflects the fact that the Congress took action in the 1980's to control costs in Federal employee retirement programs.

In contrast, spending for Medicare and Medicaid will continue to increase. A vote to cap entitlement spending therefore, will really mean that the Congress wants to cut programs like Federal employee retirement that are under control because it is unwilling to tackle the reforms needed in the health care system. An entitlement cap is an irresponsible, simple-minded effort to cut programs that are not part of the problem.

The American Postal Workers Union strongly urges you to vote NO on the Domenici amendment.

Sincerely,

MOE BILLER,
President.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, April 9, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR SENATOR SASSER: I am writing on behalf of the National Conference of State Legislatures to express our concern regarding the entitlement cap provision in the Domenici, Nunn, Rudman and Robb substitute budget resolution. While NCSL recognizes the impact that mandatory spending is having on the federal budget deficit, we would like to voice our concern that any limit on such spending must not result in state and local governments being required to increase our expenditures. We are especially concerned about any approach that would cap means-tested entitlement programs.

With more than 30 states now facing extremely difficult budgetary situations, state legislatures strongly feel that the federal government should not attempt to address its budget problems by imposing additional costs on already tight state budgets. If Congress desires to address the mandatory spending problem, NCSL respectfully requests that discussion take place between Congress, states, and local governments to ensure that any future spending controls do not adversely affect state and local finances.

NCSL looks forward to working with Congress on this important issue, and please do not hesitate to contact us if we can provide any assistance. Thank you for your consideration of our concerns.

Sincerely,

WILLIAM T. POUND,
Executive Director.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. I yield 1 minute to the Senator from Arizona.

Mr. DECONCINI. Mr. President, in trying to discuss this in the framework that this is not a cut in veterans' benefits is just not telling the American public, veterans, or our colleagues here, what is really a fact. I have served on the Committee on Veterans' Affairs more than 10 years. If we do not exempt them, there will be over $1 billion cut in future years, as pointed out by the Senator from Tennessee. And if you want to show how brave you are, what a great veteran you are, and want to cut the benefits provided to disabled veterans, now is the time to vote for it. It is as simple as that. You can demagog it and pretend all you want, but you are going to cut the most vulnerable veterans and their survivors.

We will go down the list. Why do we have entitlement programs? Because we do not set priorities on raising enough revenue to run our own Government. Rightfully so, with disabled American veterans, we said, "You are entitled to something because we do not have the courage to fund it." That is why I am going to vote in favor of this amendment.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, I will yield to no one else. The majority leader will yield me 1 minute, and I yield 1 minute off of the resolution, giving me 2 minutes.

Mr. DOMENICI. I want to read a quote from the CONGRESSIONAL RECORD of March 26, 1992: "It is true that entitlements and mandatories are swallowing us whole. They are going to swallow us like the whale swallowed Jonah. But, unhappily, we will not be able to emerge from the mammoth fish as well as did Jonah. It is going to take a long, long time for our country to emerge from the octopus that is inhaling and destroying us little by little at first, but surely, in the final analysis, it will get us."

The distinguished chairman of the Appropriations Committee made that statement in the RECORD.

Mr. President, I believe the disabled veterans of America are worried about whether our children have any economic future and whether theirs do. This whole proposal is to save our children from poverty. I believe the Disabled American Veterans would like us to treat them as fairly as all other people on entitlement, and we are going to. We are suggesting that they all be looked at once a year to see whether, together, they are breaking this target, which gives tremendous room for expansion.

But we will look at all of them every year to see if they are breaching that target. Probably they will not get cut and anyone that says this will cut them has not read the amendment, does not understand what we are doing because the committees will decide year by year whether we have breached the target and, if we have, they will determine how we reduce spending.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I yield 30 seconds to the Senator from California.

Mr. CRANSTON. Mr. President, I believe that this proposal would lead in the first year to cuts of $92 million and before long possibly within 3 years, cuts of over $1 billion in programs that are essential to the well-being of disabled veterans. We owe them a tremendous debt that can never be fully repaid. Cutting now our obligation to them is, I believe, a very grave and unfortunate mistake.

Mr. President, I rise in support of the majority leader's second-degree amendment to exempt veterans compensation from the arbitrary direct-spending caps that otherwise would be imposed as a result of the proposal of the Senator from New Mexico [Mr. DOMENICI]. As chairman of the Committee on Veterans' Affairs, I am deeply concerned that, without the exemption in this amendment, the Domenici proposal would expose veterans entitlements to reductions as the result of growth in other direct-spending programs. The major veterans organizations oppose the Domenici proposal and, in letters to the chairman of the Budget Committee, to Senator DOMENICI, and to me, have strongly expressed their opposition to direct-spending caps. They are alarmed at the effect this could have on compensation for service-disabled veterans and the survivors of those who died from service-connected causes and on education and other benefits that veterans earned through service to their country.

Mr. President, this proposal is derived from the OMB Director's Introduction to the President's fiscal year 1993 budget, which proposed to cap ag-

gregate mandatory spending at population-plus-CPI, plus a specified percentage allowance—either 2.5 percent or, if comprehensive health reform has been enacted, 1.6 percent. That proposal was included in title 46 of S. 2217, a bill introduced by Senators DOLE and DOMENICI on February 7, 1992, at the request of the administration.

The Domenici amendment is similar, but contains smaller, and declining, percentage allowances: starting at 2 percent for fiscal year 1994 and declining to zero percent for fiscal year 1997. CBO has estimated that these percentages would force sequestrations of $3.4 billion in fiscal year 1995, $10 billion in fiscal year 1996, and $39.5 billion in fiscal year 1997.

From the standpoint of veterans programs, these caps would require totally unfair cuts in—

Service-connected-disability and survivors compensation;

Needs-based disability and death pensions for wartime veterans and their survivors;

Vocational rehabilitation for service-disabled veterans; and

GI bill educational benefits.

The Domenici proposal would force cuts of $92 million in veterans' service-connected disability and death compensation and $26 million in pensions for fiscal year 1995, rising to $1.26 billion in compensation and $338 million in pensions for fiscal year 1997, according to CBO data.

Mr. President, as I noted earlier, veterans organizations strongly oppose entitlement-cap proposals such as the one contained in the Domenici proposal.

The American Legion in a March 31 letter to the chairman of the Budget Committee, Senator SASSER, has stated:

> Our organization strongly opposes this idea * * * [W]e find it incredible one year after Operation Desert Storm that a proposal is being offered to potentially cut GI Bill benefits.

In an April 1 letter to Senator DOMENICI, the Veterans of Foreign Wars has stated:

> This is written to express the shock and outrage of the 2.2. million member Veterans of Foreign Wars * * * This would constitute a grievous injustice to our disabled veterans. These sequestrations would necessitate large and totally unfair cuts in service-connected-disability and survivor's compensation, needs-based disability and death pensions for wartime veterans and their survivors, vocational rehabilitation for service-disabled veterans, and GI Bill educational benefits. The Disabled American Veterans, in an April 6 letter to me, said:
>
> To repeal current sequestration protections afforded veterans' entitlements and once again reduce veterans' benefits—especially as a result of increased spending by other federal entitlement programs—is unconscionable.

Finally, in an April 2 letter to Senator SASSER, the Paralyzed Veterans of America said:

> [T]his proposal arbitrarily would subject entitlement programs for the nation's disabled and poorest veterans to sequestration.* * * To force cuts in compensation for service-connected disabilities and survivors benefits, disability pensions for wartime veterans, vocational rehabilitation and educational benefits is to abrogate the Nation's commitment to the men and women who have served in the Armed Forces.

Mr. President, I ask unanimous consent that copies of these letters be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, veterans know that threats of sequestration are not mere bluffs. They are not empty threats of a doomsday that never occurs. Sequestrations have occurred and they have resulted in cuts in veterans programs. In fiscal year 1986, the VA medical care account appropriation was reduced by $118 million under sequestration. The fiscal year 1990 sequestration, which was 1.4 percent for nondefense accounts, reduced that appropriation by $159 million. These sequestrations were very harmful. The entitlement-cap sequestrations that would occur under the Domenici proposal would be far greater than the fiscal year 1986 and fiscal year 1990 sequestrations.

Mr. President, even granting that the purpose of sequestration is to force the action necessary to avoid a sequester, history teaches us that this proposal is extremely dangerous to veterans. In 1990, in order to avoid a sequester, Congress adopted reconciliation instructions that required veterans program cuts totaling $620 million in fiscal 1991 and $3.35 billion over the 5-year period fiscal year 1991 through 1995. The resulting reconciliation legislation enacted in November 1990 inflicted some serious, very painful cuts. Additional cuts resulting from this entitlement cap necessarily would be extremely painful.

Mr. President, that pain would be much more than financial hardship. It also would be the sting of a slap in veterans' faces—an extremely hard and unfair slap coming so soon after the congressional praise of our Armed Forces that we all heard last year as our troops came back from the gulf. Many of those troops are now veterans, and they and veterans of all wars deserve the benefits that this amendment puts in jeopardy.

Mr. President, I cannot imagine why the advocates of direct-spending caps believe that exposing these top priority veterans programs to automatic reductions is good policy. The proposal is grossly unfair and would run the risk of defaulting on this nation's most fundamental obligations to those who made great sacrifices in answering the nation's call throughout a century marked by frequent armed conflicts.

Mr. President, a CBO analysis of the direct spending programs that would be aggregated under the Domenici caps shows that costs of health care programs—Medicare and Medicaid—would cause the caps to be exceeded. The costs of veterans' entitlements would stay fairly constant.

Mr. President, it is extremely important that skyrocketing health care costs be restrained. That issue must be faced head on. Every responsible national health care proposal must address it.

What is particularly ironic about the Domenici proposal is that it is not accompanied by a serious proposal to restrain health care costs. Likewise, the President's spending cap legislation, in S. 2217, was not accompanied by a proposal to control health care spending.

If the Senator from New Mexico has a workable solution to the problem of inflation in Medicare and Medicaid, he should bring it forward for consideration. The need for responsible, effective proposals is clear. He should make one.

But, Mr. President, the Senator should not avoid that task himself and, instead, take veterans' entitlements and other mandatory programs hostage and threaten deep cuts in them if no one else produces a workable solution. Rather than proposing a real solution to the health care crisis in this country, the President and other supporters of entitlement caps have decided to avoid the issue: they accept the status quo—huge increases in health care costs and millions of Americans shut out of health care—and pay for the increases with real and painful across the board cuts in all entitlement programs that serve veterans and other deserving and needy individuals.

Ultimately, Federal deficits must be reduced and strong and creative efforts must be made to control health care costs that are driving up the costs of Medicare and Medicaid and placing adequate health care beyond the reach of millions of Americans. However, we should not try to accomplish these goals through budget gimmicks that threaten arbitrary cuts in programs that address our solemn commitments to veterans and their families and basic needs of other Americans.

Mr. President, I hope the Senate will reject the Domenici proposal—but, in case it does not, I urge my colleagues to support this second-degree amendment to exempt veterans disability compensation from the unfair cuts that the Domenici plan would produce.

EXHIBIT 1

THE AMERICAN LEGION,
Washington, DC, March 31, 1992.

Hon. JIM SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: The American Legion has learned that the Senate Budget Committee is expected to consider within the next several days a proposal which would impose enforceable caps on mandatory spending. It is our understanding that the proposal could lead to cuts in various enti-

tlements, including such veterans benefits as disability compensation, need-based pension, vocational rehabilitation and GI Bill educational assistance.

Our organization strongly opposes this idea. It appears that the pending plan to impose mandatory spending restraints is the 1992 version of similar initiatives in recent years to control budgetary growth by applying across-the-board cuts. As our organization has stated repeatedly, such cuts fail to consider the merit of individual entitlements. Also, they fail to consider which of those entitlements have contributed most to the burgeoning federal budget. You can be sure that veterans benefit entitlements are not within the budget-busting group.

In particular, we find it incredible one year after Operation Desert Storm that a proposal is being offered to potentially cut GI Bill benefits. This comes on the heels of (1) an administration budget which would make the "up front" cost of those benefits more expensive for the active duty member and (2) an overwhelming Senate vote several weeks ago to increase educational assistance for nonveterans by raising the maximum Pell Grant benefit by 50 percent.

Your attention to The American Legion's views on this matter is deeply appreciated.

Sincerely,

PHILIP RIGGIN,
Director, National Legislative Commission.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, April 1, 1992.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: This is written to express the shock and outrage of the 2.2 million member Veterans of Foreign Wars at your announced program to reduce VA Compensation and Pension payments to America's sick and disabled veterans by including them in a program of direct spending caps to be imposed on all mandatory federal spending with the exception of Social Security benefits.

Your proposal would seem to be based upon an Office of Management and Budget concept which was contained in the introduction to the President's FY 1993 budget—and later expressed in legislative form in title XLVI of S. 2217, a bill Senator Dole and you introduced on February 7—to cap aggregate mandatory spending so as not to exceed an annually adjusted figure based on the beneficiary population plus the CPI together with a specified percentage allowance. Your proposal would enforce these caps through sequestration.

This would constitute a grievous injustice to our disabled veterans. These sequestrations would necessitate large and totally unfair cuts in service-connected-disability and survivor's compensation, needs-based disability and death pensions for wartime veterans and their survivors, vocational rehabilitation for service-disabled veterans, and GI Bill educational benefits. It is inconceivable to us that either you or the President would countenance and put forward this plan to subject veterans programs to automatic reductions.

Adding a note of painful irony to this plan is the fact that through the years veteran's programs have grown at a much slower rate than is even called for under your proposal's annual indexing formula. But by treating all mandatory spending as an aggregate you would lump veterans together with those non-veteran programs whose costs have far outpaced inflation, and funding for sick and disabled veterans would be sequestered as well. Veterans lose twice under this scenario, first, because unlike others they have done their part through the years by accepting COLAs that were in line with the CPI; and now, secondly, because their already meager compensation and pension payments would be subject to additional sequestration cuts under your proposal. This would be totally unjust and is at odds with our nation's moral commitment to care for those who suffered and sacrificed so much in order that we might all remain free.

Thus I urge you in the strongest terms, on behalf of the entire VFW membership as well as all of America's veterans, to refrain from pursuing this proposal which would greatly harm America's disabled veterans.

Sincerely,

ROBERT E. WALLACE,
Commander-In-Chief.

DISABLED AMERICAN VETERANS,
Washington DC, April 6, 1992.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Disabled American Veterans [DAV] shares your deep concern that should Senator Pete Domenici's proposed program of direct spending caps on mandatory spending become law, it would subject certain veterans' entitlement programs to sequestration as a result of growth in other direct spending programs.

Senator Cranston, as you are well aware, VA entitlements are not a major contributing factor in the ever increasing federal deficit. Quite to the contrary. The number of veterans and their survivors who receive service-connected disability and death compensation payments has been on the decline for the past several years. Additionally, the percentage of federal outlays spent on VA benefits and services has been cut in half from 4.4 percent in 1977 to 2.2 percent in 1991.

I also wish to point out that the Omnibus Budget Reconciliation Act of 1990 (OBRA) required VA to reduce spending on veterans' entitlements by $620 million in Fiscal Year 1991 and a total of $3.35 billion through Fiscal Year 1995. To meet these spending reduction requirements, VA was required to: suspend payments to certain incompetent veterans; institute a $2.00 copayment for prescriptions; repeal provisions which permitted reentitlement to survivors' benefits upon termination of a former spouse's or child's marriage; limit vocational rehabilitation to certain service-connected disabled veterans; limit burial benefits to wartime veterans and delay a COLA for service-connected disability and death benefit recipients.

While veterans' benefits were being reduced or eliminated, other federal entitlements were being enhanced. The remarriage provisions for CIA surviving spouses was liberalized and increased protection was being afforded to incompetent Social Security beneficiaries. Suffice it to say, that veterans were not treated fairly under OBRA.

To repeal current sequestration protections afforded veterans' entitlements and once again reduce veterans' benefits—especially as a result of increased spending by other federal entitlement programs—is unconscionable.

Senator Cranston, DAV certainly appreciates your efforts to point out the inequities contained in Senator Domenici's proposed program of direct spending caps and we look forward to your continuing advocacy on behalf of America's service-connected disabled veteran population.

Sincerely,

CLEVELAND JORDAN,
National Commander.

PARALYZED VETERANS OF AMERICA,
Washington, DC, April 2, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SASSER: On behalf of the members of Paralyzed Veterans of America [PVA], I urge your strong opposition to an effort which would impose direct spending caps under which overall limits on mandatory spending would be enforced through sequestration. While PVA recognizes the importance of controlling growth in federal spending and reducing the growing national deficit, this proposal arbitrarily would subject entitlement programs for the nation's disabled and poorest veterans to sequestration; sequestration that is the result of growth in other direct spending programs. Additionally, this proposal exempts Social Security benefits thereby establishing a gross inequity in the treatment of America's veterans.

The proposal, which we understand will be sponsored by Senator Domenici, Ranking Member of the Budget Committee, is based upon the earlier OMB proposal contained in the President's Fiscal Year 1993 Budget. This earlier proposal would cap combined mandatory spending based on a "population plus CPI" with an established percentage allowance. The newer proposal would establish the cap using a smaller allowance factor.

Both these approaches to controlling mandatory spending are inherently unfair to veterans. both would force reductions in veterans' benefits due to uncontrollable growth in other programs. To force cuts in compensation for service-connected disabilities and survivors benefits, disability pensions for wartime veterans, vocational rehabilitation and educational benefits is to abrogate the Nation's commitment to the men and women who have served in the Armed Forces.

Again, I urge your opposition to any proposal to establish mandatory spending caps which targets veterans' benefits for reduction while exempting other mandatory programs or which would cut funding of veterans' programs due to growth in other entitlement areas.

Thank you.

Sincerely,

VICTOR S. MCCOY, SR.,
National President.

Mr. SANFORD. Mr. President, the debate on entitlement growth has been excellent. We all agree that health care costs are out of control. I support serious reform that will hold down health care costs and provide affordable health care for everyone. Health care inflation accounts for most of the growth in entitlement programs and those entitlement programs not causing the problem should not be penalized because health care costs are out of control. We need major health care reform, and I will support a sound proposal to bring health care entitlement costs down. But penalizing entitlements that are not part of the problem is not the best approach. We need a plan first that will control the entitlement growth that is taking place.

Mr. SIMON. Mr. President, I rise in opposition to Senator DOMENICI's sub-

stitute amendment to the budget resolution.

The Domenici-Nunn amendment does focus our attention on an issue of great importance, the need to get our deficit under control. Our deficit for the next fiscal year is approaching $400 billion, and in the next fiscal year we will spend $316 billion in interest on the national debt.

Despite my support for reducing the deficit, the kind of entitlement cap contained in the Domenici-Nunn amendment is not the answer. This proposal would establish a limit on entitlement spending, beginning in fiscal year 1994. Entitlement spending would be allowed to increase to accommodate population increases, inflation, and an additional 2 percent in fiscal year 1994. This additional amount would be phased out by fiscal year 1997.

If entitlement spending breached these caps, a legislative reconciliation process or a sequestration process would be triggered, forcing across the board reductions in important entitlement programs. The programs which would be cut across the board include food stamps, child nutrition, supplemental security income, veterans' benefits, guaranteed student loans, housing assistance, and on and on. This would be a disaster for our country. According to the Senate Budget Committee, this proposal would force more than $50 billion in entitlement cuts over 5 years. These kinds of reductions would occur in programs which benefit those in our society most in need of help.

We need to take a closer look at entitlement spending. When we do that, we can see clearly that the large increases in entitlement spending are concentrated in two programs: Medicare and Medicaid. But under this entitlement cap, all entitlement programs would be cut across the board. We should not accept across the board sequesters in all entitlement programs, because the costs of health care causes large increase in two entitlement programs.

Let's look at some specifics: The Secretary of Health and Human Services, in the 1993 budget, states that we will expend 10 percent more on Medicare in 1993 than in 1992. This is similar to the rate of growth in the recent past—and similar to current growth in health care spending generally.

According to CRS, for more than 20 years Medicare costs, part A, have grown at a faster rate than inflation. From the mid 1970's to the early 1980's, the CPI rose by a cumulative 85 percent and Medicare hospital insurance payments rose 242 percent. Between 1983 and 1990, hospital payments rose by 57 percent while the CPI rose 30 percent.

These numbers reflect the overall increases in the costs of providing health care nationally, particularly hospital care, which is such a large part of the health care needed by the elderly.

What we need is leadership from the President and Congress. We need to consider comprehensive health care reform. That's the way we should begin to address the large spending increases in Medicare and Medicaid.

I want to discuss, in real terms, what this proposal would mean to one entitlement program which I care a great deal about: Vocational rehabilitation. This entitlement cap proposal would reduce an already capped entitlement and deny employment related services to millions of Americans with disabilities.

The Rehabilitation Act State Grant Program is an entitlement to States, not to individuals. It is an already capped entitlement. It is capped at the level of the annual cost of living increase. There is no entitlement for the Rehabilitation Act that allows for growth in number of eligible individuals.

The effect of including the Rehabilitation Act under the umbrella cap for all entitlement programs is to make annual reductions in this program to allow for the continued casework load in programs that include entitlements to the individuals. The cuts could be a couple hundred million dollars in the next 5 years.

There is a great deal of sentiment among advocates for persons with disabilities for making the Rehabilitation Act State Grant Program an entitlement based on eligible individuals. That clearly is not going to happen in the near future. So it is ironic and frustrating that the program is being penalized for not being an entitlement to individuals.

I would remind my colleagues that the Rehabilitation Act State Grant Program is the only federally funded program that provides comprehensive services designed specifically to place individuals with disabilities into competitive employment. Some years ago, I asked CBO for a written statement on whether this program actually produces revenues for the Federal Government because of the pay-back from making independent taxpayers out of persons who are otherwise on other entitlement programs. The answer was a resounding yes. Expenditures on vocational rehabilitation are repaid within 4 years as a result of reductions in welfare, food stamps, and other social support programs. State estimates on the dollars saved per dollar invested for vocational rehabilitation are generally in the neighborhood of $10 saved for $1 spent on services.

Persons with disabilities have unemployment rates above 66 percent, the highest of any group in our Nation. We enacted the Americans with Disabilities Act to end the discrimination keeping many of these individuals out of jobs. But the reality is that unless we provide the rehabilitation services to accompany these new rights, the impact on employment of persons with disabilities will be minor.

The program at currently funded levels serves an estimated 1 out of 20 eligible persons with a disability. That percentage would be significantly cut if the proposed entitlement cap were enacted. I ask my colleagues to consider these issues. I am sure that not one of them wants these drastic cuts in a program that helps put persons with disabilities to work.

Mr. CHAFEE. Mr. President, I shall vote against the amendment. It is clear disabled veterans' pensions are not going to be affected one iota under the Domenici proposal. The real question is: Are we going to make any effort to control the deficits of this Nation, which are going to have to be paid by our children?

Everyone says we must do something about the deficits as long as our efforts are guaranteed not to affect anyone. Currently, deficits are at the rate of $400 billion a year. The net interest on the Federal debt is $200 billion per year and increasing every year. That $200 billion per year is payment on interest. None of those dollars go for principal payments, but all is solely for interest.

If we are going to deal with the entitlements, we cannot exempt every program thereunder, even though some programs, such as disabled veterans, would be unaffected.

The Domenici approach is not perfect and, I hope, will be improved as we go through the legislative process. Nonetheless, it is an honest attempt to deal with the deficits.

Mr. ROCKEFELLER. Mr. President, I oppose the Domenici-Rudman substitute amendment.

An entitlement cap is not an effective or fair way to deal with our budget deficit. I believe we must tackle the deficit. We must face the hard choices. But we should not shy away from choices by hiding behind a defective mechanism—an across the board entitlement cap.

We have made real progress in reducing the costs in the Medicare Program. The rate of growth is less than in the private sector, so that Medicare is not the real culprit. Capping Medicare without doing anything to the private sector will result in further cost shifting and only exacerbate the situation. If I have learned anything from reforming health care these last years, it is that you cannot just treat the symptoms—you have to treat the disease. To reduce further growth in health care costs, we need comprehensive reform, not a strategy that attacks our most vulnerable citizens.

Further cuts in Medicare and Medicaid programs will mean closing vulnerable rural hospitals. Further cuts in these programs will result in more physicians turning away millions of Medi-

care and Medicaid patients. We will inflict real hardship on older and disabled Americans. We should have learned by now that this piecemeal approach will not work—it will not solve the problems of health care inflation. The real solution is comprehensive, systemwide health care reform.

While health care programs will sustain the biggest cuts, other valuable programs will be reduced. Veterans, including those injured in the line of duty, will face cutbacks. We would be callously turning our backs on men and women who literally risked their lives and deny them benefits that they and their families depend upon.

Foster care is an entitlement program. A cap on entitlement could mean that a battered child would have to live an abusive home if funding ran out.

Nearly 25 million Americans—117,610 in West Virginia—depend on food stamps, an entitlement program. It would not be fair to impose a cap on such a basic nutrition program during a recession when parents are struggling to feed their child.

We must face our responsibility and find effective ways to reduce the deficit. We need a fair and reasonable cure, not a quick fix that masks the symptoms and attacks our most vulnerable and deserving citizens.

Mr. BOND. Mr. President, we have heard quite a few things from the other side of the aisle that imply there is some set of rules one must comply with before one's credentials are sufficient to talk about cutting the deficit.

So I decided to see how many of us have been putting our money where our mouths are and reviewed several votes cast just in the past month.

The first, offered by Senator LEVIN on March 12, 1992, would have eliminated the election year gimmick tax cut in the Democrats tax bill, and instead used the revenues raised by raising taxes on the wealthy and small businesses for two purposes:

First, deficit reduction, 75 percent; and

Second, infrastructure.

This obviously should have been supported by all who believe the deficit is vital—but it lost 57 to 38, with 33 Republicans and only 5 Democrats supporting it.

Thus vote No. 1, to use increased taxes to cut the deficit, rather than provide for other tax cuts was defeated.

Vote No. 2, March 13, 1992, Kasten amendment to freeze for 5 years in domestic and international spending, using the President's defense number—and then using some of the savings to pay for economic growth package, the rest for deficit reduction.

This loses as well, 61 to 36—35 Republicans, 1 Democrat support.

Thus vote 2, cutting spending to cut taxes and reduce the deficit also loses.

Vote No. 3, March 26, 1992, remove the walls between defense and nondefense—or in other words save the peace dividend and apply it to reducing the deficit, or spend the defense cuts by removing the walls. Surprisingly the amendment falls on a procedural vote 48 to 50, with 40 Republicans and 8 Democrats defeating motion to invoke cloture. Thus the cut the deficit reduction crowd wins, but only because opponents needed 60 votes.

Vote No. 4, April 9, 1992, Exon amendment to cut defense in the first year more than President's request. Defeated 45 to 50, with 37 Republicans and 13 Democrats opposed. However, of those supporting the bigger cut, 42 of the 45 were already on record as supporting spending the peace dividend, so really only 3 were serious about using additional defense cuts to reduce the deficit. They were Senators EXON, GRASSLEY, and JEFFORDS.

The other 42 obviously only care about defense cuts because they want to spend them, in fact during the debate the phrase was used "we'll park these funds until we can get at them later."

Thus, only three Senators can claim deficit reduction glory on this vote.

Vote No. 5, April 8, 1992: Motion to waive the Budget Act so the Senate can pass amendment calling on Congress to pass a balanced budget amendment. The motion to waive wins by a vote of 63 to 32.

Vote No. 6, April 9, 1992: Senator SEYMOUR wants to cut Congress by 25 percent over 2 years. Senator SASSER adds in similar cuts for executive branch and White House. Amendment passes 52 to 42, thus another vote truly to cut something real is actually successful.

So what's the scorecard?

Of my friends who have been the most vocal on the other side of the aisle about how we need credentials before entering this debate, most could only find it in their heart to vote for one of the six, and that was to cut defense. And even that vote was only after they had first voted to allow those funds to be spent. So who is really serious and who is status quo?

But what are we to conclude: Almost half the Senate would rather raise taxes and then give away the new revenues rather than reduce the deficit. They don't want to cut Congress or the executive agencies by 25 percent over 2 years. They oppose freezing discretionary spending for 5 years; they oppose a balanced amendment; and while they want to cut defense, all but a few want to spend it on something else.

Is it any wonder we have $400 billion deficits?

And now we have the ultimate test. The Domenici-Nunn-Rudman-Robb proposal. It cuts everything. Defense, $35 billion below the President; domestic $70 billion, 5-year cut; freeze international spending for 5 years, saving nearly $10 billion. And then it assumes a cap on the rate of growth, beginning in 1994, on all mandatory spending except Social Security.

Naturally, this proposal also failed, as the test vote garnered only 28 votes. If I would have been a betting man I would have bet the house on this outcome, but Mr. President, I want to express my support, my admiration but also my disappointment with the Domenici-Nunn-Rudman-Robb substitute.

I support it because I believe it is the most serious budget deficit reduction proposal on the horizon. And while I realize it was a vain hope that those who have been preaching about cutting the deficit would have put their money where their mouth is, if you don't have some hope you don't belong in public service.

But, Mr. President, I do wish to express my admiration for the courage of this gang of four who have decided that the good of the country is more important than the siren call of the interest groups. All who support this proposal should at a minimum get a red badge for political courage.

But I must also point out my disappointment with the proposal, for while it retains the 5-year freeze on foreign aid, it abandons the freeze in domestic spending. Instead, nearly all the additional defense savings above the President's defense cuts are spent.

I think this misses a real opportunity to balance the budget by the turn of the century, but I will certainly not oppose this otherwise ambitious plan because of it.

Mr. KERREY. Mr. President, I rise in strong opposition to this amendment. There is no question that the soaring deficit is an enormous problem that must be addressed—but this amendment is the wrong solution.

Health care costs are skyrocketing. This year our Nation will spend nearly $800 billion on health care. At a time when U.S. firms face stiff international competition and a lingering recession, they will also face 20- to 30-percent increases in employer health insurance premium costs. Families, already coping with economic problems caused by a recession, will see their coverage decline, their out-of-pocket spending on health care rise, and their insecurity grow as they fear a loss or change of jobs will plummet their families into medical indigency.

The Bush response to this crisis is to give it a little lip service, then hope it goes away quietly. Today we debate an equally useless response in the form of a proposed cap on entitlement spending.

We all know what the problem is here. The health entitlements, namely Medicare and Medicaid, are driving the deficit. Between 1993 and 1997, 85 percent of the growth in entitlement programs is expected to come from the health care entitlements. CBO predicts that health care will consume 22 percent of all Federal spending by 1997. As

health care costs continue to go up, the chances of our controlling the deficit go down.

Simply capping the entitlements is not a solution. Capping the entitlements requires that our most vulnerable citizens, seniors, low income women, infants and children, and others, to bear the brunt of health care costs over which they have absolutely no control. Capping entitlements will wreak havoc on the private side of our health care system as the costs of the cap are shifted irrationally to private payers of health care. Capping entitlements is a backdoor and fraudulent attempt to sidestep the serious problems with our current health care system.

This proposal illustrates the need for a comprehensive reform of our Nation's health care financing system. Unless we have a comprehensive solution, the fragmented nature of our current system will result in continued cost-shifting and inequities in payment and coverage. It illustrates the need for a comprehensive solution, such as the Health USA Act of 1991, which I introduced last year, that restructures how we finance health care. The bill will eliminate the inequities imposed by cost-shifting, cover all Americans regardless of their health or employment status, and, most importantly for this debate, control costs in a comprehensive fashion. Creating a national health care budget and methods to control health care costs within that budget for our entire system is the best thing we can do to solve the problem of exploding health entitlement spending and the Federal deficit.

Under the guise of forcing needed discipline on entitlement spending the Domenici amendment would incite internecine welfare among entitlements including farm price support programs, veterans programs, student loan programs, and Medicare and Medicaid. For example, if health costs continue to escalate at two and three times the rate of inflation, this growth in outlays could force offsetting reductions in farm program price support costs, even though farm price support rates have been either frozen or reduced under existing law. Such a result would needlessly pit farmers against those whose health is at risk. It would force rural States like Nebraska to square off against the largely urban areas of the country where most of the Medicaid costs are incurred.

Mr. President, we do need to get our deficit under control. It is literally dragging our Nation down as we speak here today. We do need to get a handle on entitlement spending under the budget. But, Mr. President, placing a cap on the entitlement programs will not address the deficit in a constructive manner. I strongly urge that we defeat this amendment and move onto a thorough and constructive debate on our Nation's health care crisis.

Mr. GORTON. Mr. President, the vote we are taking today is not a vote about whether a specific group of disabled Americans deserves Federal assistance. This is a vote about whether or not Congress will reign in those programs which are bankrupting this country and putting future generations economic well being at risk.

The Domenici substitute amendment to the budget resolution is an attempt to get this country's deficit spending patterns under control. Contrary to the opponents allegations, the Senator from New Mexico's amendment does not cut spending on entitlements, it only slows the growth of entitlement programs.

Here is how Senator DOMENICI's amendments slows the growth of these programs. First, it allows entitlements to grow at a rate which accommodates increases in the population eligible for the program. In addition, the Domenici amendment allows all of these entitlement programs an inflationary adjustment equal to the underlying rate of inflation in the country. And, on top of the increases for caseload growth and inflation, in the first several years of this agreement the Domenici amendment allows all of these programs to grow an additional percentage point or two. In other words, the Domenici amendment will not reduce spending in any entitlement program $1.

The disabled veterans program, which the Mitchell amendment exempts from scrutiny, is not increasing at a rate higher than inflation. This program will not bankrupt this country. The Domenici amendment does not require lower spending in this program. I do not anticipate Congress reducing spending in this program $1.

I will, however, vote against the distinguished majority leader's amendment. The problem is that the Mitchell amendment starts the Senate down the path of excluding programs, and, as Senator MITCHELL knows, if we exempt one program, we will end up exempting all programs.

Everyone here today realizes that this is a vote about whether or not the Senate will come to grips with what is eroding the economic power of this country, the uncontrolled growth of the Federal debt.

Fundamentally, this is a vote about my children and grandchild and the children and grandchildren of every veteran and nonveteran American. It is not a vote about whether or not disabled veterans deserve assistance from the Federal Government. This is a vote about whether or not America will live within its economic means.

Mr. President, I cannot standby in this body and vote for any one subset of Americans at the expense of all future generations of Americans. I will vote today for the economic future of American's children.

Mr. WOFFORD. Mr. President, the sponsors of this substitute have got the problem right. They rightly recognize that health care costs are out of control—that these costs are driving up Federal spending and the Federal deficit. But, the proposed solution is wrong. It is simple. It is easy. And it pretends to be a painless solution. But it is wrong. This substitute addresses the symptom, and ignores the underlying sickness.

Let there be no mistake. This vote is the first vote on comprehensive health care reform this year. And contrary to my colleague from New Mexico—I believe that if you genuinely support health care reform, and if you are serious about bringing real cost containment to the American people, you will vote against this substitute.

You will vote against it because you recognize that the substitute is only a gesture, another way to avoid acting on a real problem driving our budget deficits.

You will vote against it because you refuse to shift this national problem onto the backs of the less fortunate—the elderly and the poor.

And you will vote against the substitute because you know that the people of America will not be able to avoid the costs of this move. People will end up paying for cuts to Medicare and Medicaid with bigger hospital bills and higher medical premiums. Hospitals and doctors will compensate for the cuts by charging their private patients more.

Meanwhile, the cost of health care will continue to mount. More businesses will be unable to provide health benefits. The ranks of the uninsured will swell.

Although I will vote against the proposed substitute, I am delighted that this debate has occurred. It has unveiled the effects of health care costs on the Federal deficit. It has made clear the urgent need for comprehensive health care reform.

And I am glad to hear that the sponsors of this substitute are ready to sit at the table and help us hammer out an agreement that reforms the health care system and effectively controls health care costs. I look forward to beginning this work, to passing legislation that stops the rising tide of health costs.

Mr. MITCHELL. Mr. President, I urge Senators to vote for this amendment to help us defeat this resolution.

This resolution avoids the real problem which is dealing with the skyrocketing cost of health care in our society. It would lump the increases in medical care with all the other so-called mandatory programs and cut all of them, even though the growth is occurring in the health care programs, Medicare and Medicaid.

This is a way of avoiding accountability. This is a way of avoiding dealing with the principal problem, which is the cost of health care, and there is no logic whatsoever to this proposal.

Why are we going to cut the compensation of a disabled veteran because health care costs are out of control? The disabled veterans will ask why do not you deal with the health care costs? Why do not the proponents of this amendment join in doing something about health care costs instead of cutting the disabled veteran's pension. That is the problem. It is admitted; it is undisputed.

The increase is in health care. The cost is in health care. Let us deal with health care. Let us not ask disabled veterans to pay the price for something that they are not contributing to and they are not the cause of.

The root cause is health care costs and that is what we should be addressing. This resolution does not do that. There have been no hearings and no discussion, just a last minute resolution that has a profound effect upon millions of Americans who are not the cause of the problem and avoids that which is the cause of the problem.

It is exactly the wrong way to legislate, and it is exactly the wrong way to deal with something as serious as our budget resolution.

I urge the adoption of this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment offered by the majority leader, No. 1779. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

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

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—66

Adams	DeConcini	Kasten
Akaka	Dodd	Kennedy
Baucus	Exon	Kerrey
Bentsen	Ford	Kerry
Biden	Fowler	Kohl
Breaux	Glenn	Lautenberg
Bryan	Gore	Leahy
Bumpers	Graham	Levin
Burdick	Grassley	Lieberman
Burns	Harkin	McCain
Byrd	Hatch	McConnell
Coats	Heflin	Metzenbaum
Conrad	Hollings	Mikulski
Cranston	Inouye	Mitchell
D'Amato	Jeffords	Moynihan
Daschle	Johnston	Murkowski
Packwood	Rockefeller	Simon
Pell	Sanford	Specter
Pressler	Sarbanes	Stevens
Pryor	Sasser	Thurmond
Reid	Seymour	Wellstone
Riegle	Shelby	Wofford

NAYS—28

Bingaman	Domenici	Nunn
Bond	Durenberger	Robb
Boren	Gorton	Roth
Brown	Hatfield	Rudman
Chafee	Helms	Simpson
Cochran	Kassebaum	Smith
Cohen	Lott	Symms
Craig	Lugar	Warner
Danforth	Mack	
Dole	Nickles	

NOT VOTING—6

Bradley	Garn	Wallop
Dixon	Gramm	Wirth

So the amendment (No. 1779) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have permission of the Senate to withdraw the underlying amendment, the substitute, and I am going to do that in a minute.

I wonder if the parliamentary inquiry might be made with reference to the time that is left? How much time is left on the resolution, and how much under our control?

The PRESIDING OFFICER. Three hours remain on the resolution, and 1 hour and 39 minutes remain under the control of the Senator from New Mexico. The remainder is under the control of the Senator from Tennessee.

Mr. DOMENICI. I thank the Chair.

Does the majority leader have anything further?

I wonder if I might yield Senator RUDMAN 3 minutes. I think he would like to explain or make his observations with reference to the vote?

Mr. RUDMAN. Could I inquire from my friend from New Mexico, has he now withdrawn the amendment?

Mr. DOMENICI. I have not, but I am going to.

Why do we not just do that before the Senator speaks.

I withdraw the amendment.

The PRESIDING OFFICER. Under the previous order, the Senator has that right.

The Senator from West Virginia.

Mr. BYRD. Mr. President, as I understood it, under the most recent previous order, the distinguished majority leader propounded a request that the Senator make that request at the time he intends to withdraw his amendment. The previous unanimous-consent request I think was obviated to a considerable degree by the majority leader's request.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, so there can be no misunderstanding, I made that request of the Senator from New Mexico, but he did not respond. Therefore, there was no agreement to that effect.

Mr. DOMENICI. Mr. President, I wonder if it would help the distinguished chairman of the Appropriations Committee if I did what the majority leader asked of me a while ago and ask unanimous consent that it be in order to withdraw the amendment, as amended.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object. I, of course, will not object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I had thought the Chair had earlier put the majority leader's request.

Let me say, Mr. President, I think I must challenge, again, the Chair's previous response to my parliamentary question. The request early-on that the distinguished Senator from New Mexico made, to wit, was that he be permitted to withdraw——

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator will suspend until we have order.

Those conducting conversation in the aisles, please retire to the Cloakroom.

The Senator from West Virginia.

Mr. BYRD. That he be permitted to withdraw his substitute amendment. The Senate granted that request.

Then there was the parliamentary inquiry by the offerer of the amendment as to whether or not after an amendment or amendments were adopted he could still have, under the previously granted request, the authority to remove his amendment. And the Chair responded in the affirmative.

That was the wrong response, and I do not say this in criticism of the Chair or of the Parliamentarian who apparently so advised the Chair. If this Senator had been in the chair I would have disregarded such advice from the Parliamentarian. Of course, I know that not all Senators feel that they have the liberty to do that, and for good reason.

That was a bad response from the Chair because we cannot allow Senators—I do not make this statement in derogation of the Senator from New Mexico—we cannot allow Senators to have a testing of the wind by getting previous consent that they might be permitted to later withdraw an amendment and then, after action by the Senate has occurred on that amendment be allowed to exercise the previously granted request concerning withdrawal of the amendment. That is not the way to do business. In fact, if I had known in the beginning that we were going to allow amendments to the Senator's

amendment and yet let his previously granted request to withdraw still obtain. I would have objected in the first place.

The PRESIDING OFFICER. The Chair will state that this occupant was not in the chair at the time that the ruling was made and, therefore, was operating on the information received from the Parliamentarian as to what the unanimous-consent request was.

Mr. BYRD. Mr. President, this Senator does not need that explanation from the Chair. I am fully aware as to who is in the chair now and as to who was in the chair at that time. I do not intend to belabor this point, but I think the RECORD should show that the Chair, with all due respect to the occupant at that time—this has nothing to do with the identity of the occupant—the response of the Chair to a parliamentary inquiry which was made at that time was, in my opinion, wrong, and I say that for the RECORD. The event did not establish a precedent because a response by the Chair to a parliamentary inquiry is a very thin precedent, if it even be denominated such. I do not consider it such.

The PRESIDING OFFICER. The majority leader had previously sought the floor. Is he seeking the floor now?

Mr. DOMENICI. I wanted to withdraw the amendment.

Mr. BYRD. I have no objection.

Mr. COATS. Reserving the right to object. Mr. President, I will do so for the purpose of asking a parliamentary inquiry. I am new to the Senate, and I do not pretend to understand all the procedures. I would like clarification of the statement of the Senator from West Virginia relative to the Parliamentarian's ruling so that if this situation arises again in the future, I will have some understanding as to what the correct parliamentary procedure is relative to the request that was made by the Senator from New Mexico.

There seems to be some confusion as to whether the Parliamentarian's advice to the Chair, whoever was in the Chair at that particular time, was the correct advice.

The Senator from West Virginia indicated that it was not the correct advice. Obviously, it conflicts with the advice that was given by the Parliamentarian. For those of us who may find themselves in that situation in the future, I would appreciate a clarification as to what is the correct ruling.

The PRESIDING OFFICER. The Chair inquired when he came to the occupancy of the chair. The correct ruling is that if a Senator has offered an amendment, the Senator has the right to withdraw that amendment until such time action has been taken upon that amendment. When action has been taken upon the amendment, as has been pointed out by the Senator from West Virginia, then the Senator loses the right to withdraw that amendment as a matter of right.

What occurred is during that period of time, there was a series of unanimous-consent requests. One was made first by the Senator from New Mexico, the occupant of the chair is informed, and that he had the right to withdraw his amendment. It is my understanding there was maybe some confusion, but the majority leader was then granted the right to make that same request. But the true parliamentary situation would be that he needed unanimous consent in order to withdraw his amendment once the vote had occurred on the second-degree amendment.

I might state that the pending business at the moment is the first-degree amendment to his amendment. Have I made that clear to the Senator?

Mr. COATS. Mr. President, I further inquire——

Mr. Mitchell addressed the Chair.

Mr. COATS. I yield to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, in good faith, the Senator from New Mexico has sought unanimous consent now to withdraw the amendment which renders moot the question of the force of the prior agreement. And I would suggest that since we are now in the middle of a Friday afternoon with Senators wanting to leave and continuing the budget, and we have to complete action on the budget resolution, the Senate acted in response to my request. I would suggest that the Senator now renew that request, and if the request now granting unanimous consent is made, the prior discussion is moot because the withdrawal will have been based upon the current consent.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that it be in order to withdraw my substitute, as amended.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered. The amendment is withdrawn.

Mr. DOMENICI. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1777), was withdrawn.

Mr. DOMENICI. Mr. President, I want to know if Senator RUDMAN would like to speak? I want to yield him time off the resolution.

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

Mr. DOMENICI. I yield 3 minutes to the Senator.

Mr. RUDMAN. Mr. President, I probably will not take the 3 minutes. The majority leader is right. It is late. I believe this has been a very instructive discussion. I am sorry that it was necessary to pull this down. The handwriting is on the wall. The political consultants, the media consultants, the pollsters, the strategists upon whom everyone in this Congress bestows millions of dollars every 2 years are already in their rabbit warrens with their editing machines crafting the next set of negative commercials to those who voted their conscience on this amendment.

I do not claim for a moment that those on the other side did not vote theirs. I am never one to suspect peoples' motives. But I will simply say that there are a lot of people in America today, including a number of disabled veterans who care deeply about where we are going.

And I have one other thing to say which I am going to research and get into the press in the next week or 10 days. There is a very interesting letter, not from a Senator, but from the majority staff of the Senate Agriculture Committee. I have never seen anything like this before. It is addressed: To: Interested Parties. From: The majority Staff, Senate Agriculture. It was faxed to farmers and farm organizations all over America. It is shot full of inaccuracies, distortions, and untruths, and it was put out for one reason: To generate opposition to a proposal by the Senator from New Mexico. The proposal may be flawed, maybe it could have been improved—I was part of it—but, all it did was to say that in 2 years we would look at all of the entitlements.

The letter says:

"The administration has proposed a cap on total entitlement spending that could have serious implications to agriculture and nutrition. Senator DOMENICI is developing a proposal similar," et cetera.

Then you get down to page 3 and its says:

"If proportional sequestration-type reductions"—I never heard anybody talk about sequesters around here. "If proportional sequestration-type reductions are made in spending for all entitlement categories, nutrition spending would be cut by $208 million in fiscal year 1993—with the cuts increasing to $2.9 billion in '97". I mean it is absolute sophistry of the worst kind. It is not worth the paper it is printed on. It is used by a staff of this Senate to intimidate. It is exactly what is wrong with this place. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL Mr. President, I have the greatest respect and personal affection for the Senator from New Hampshire, and I have often felt the way that he has when a proposal of mine has been decisively rejected by the Senate. But I just want to say first, so there can be no misunderstanding, this substitute resolution was a resolution

of vast implications for this country and for millions of people in this country. It was submitted at the last minute. It was not subjected to the hearing process. We did not have the regular legislative process to go through it and examine it fully.

The notion that persons in the Senate, Senators, their aides, and supporters and opponents on both sides go out and marshal support for their position in opposition to those on the other side, as though that is something new is, of course, incredible. The Senator from New Hampshire has been here for along time. He knows very well that that is a regular course of action in this place. We may deplore it, but any suggestion or implication that comes out of this that this is unique to this situation is, of course, without any factual or historic basis.

I do not have the slightest idea about the letter to which the Senator referred. I have not seen it. I have not heard of it. I do not know anything about the accuracy or inaccuracy of its statements. But let us not attempt to create an implication that Senators and supporting organizations and individuals marshaling support for one or another position in the Senate is a new development. It happens often.

Mr. RUDMAN. Will the Senator yield?

Mr. MITCHELL. Certainly.

Mr. RUDMAN. I say to my friend, I do not challenge anything the majority leader just said. Everyone in this body has every right, as do their aides, to send out information to marshal support. Nor am I particularly chagrined in losing a vote. It has happened many times before. My concern with this letter, which the majority leader will learn more of in the next week or two when we get it all researched, is it was typical of scare tactics used, I might say, on both sides of this aisle in the last 10 years to scare the living daylights out of interest groups with information that is factually incorrect. I believe that the dignity of this body is such that, if a letter goes out on the letterhead of the U.S. Senate, there ought to be an effort toward accuracy, and if I gave any other impression I apologize for it.

Mr. MITCHELL. Mr. President, I certainly endorse that statement. I think all of us ought to reject and deplore any inaccuracy in the presentation of our positions, whether here on the Senate floor or in written or other communications with others. But I do not want anyone to come out of this with any suggestion that what occurred in this case—and the Senator from New Hampshire has readily acknowledged it—is not a commonplace practice on both sides.

Mr. President, I just want to say, repeat really, something I said earlier. I believe it has been an extremely useful debate. It has brought into focus and made more clear for me personally, and I think for many Senators and many Americans, that the root cause of the problem we have here is rising health care costs, and it is a problem that afflicts everyone in our society. I hope, if nothing else comes out of this, it is a determination on the part of every Senator to address that issue because that is the fundamental problem we are confronting.

Several Senators addressed the Chair.

Mr. RIEGLE. Will the Senator yield——

Mr. MITCHELL. I am going to yield the floor.

Mr. RIEGLE. For one observation?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I will yield for a brief moment.

Mr. RIEGLE. Fine. I will be brief.

I agree with the majority leader with respect to looking ahead at expenditures in the future and the need to control health costs. He is exactly right. But the other half of this debate today has to do with how this huge deficit accumulated over the last decade, principally since 1980, and I want to just insert into the RECORD for the sake of completing something from when I engaged in a colloquy with the Senator from New Hampshire, and that is I want to put into the RECORD the revenue loss from the income tax cuts of the Reagan tax cut just through the early years of the 1980's.

The source of this data is the 1981 Congressional Quarterly Almanac, and they have a chart from the Joint Committee on Taxation that shows the revenue losses because of the individual tax cuts mounting up through the years—1983, for example, $71 billion disappeared; 1984, $114 billion disappeared; 1985, $148 billion; 1986, $196 billion. Just for the years 1981 through 1986, $547 billion.

Now, most of those tax cuts, as another item I want to put into the RECORD will indicate, went to the wealthiest people in this country. I want to put into the RECORD a story from the New York Times of March 5, the headline of which is: "Even Among the Well-Off, the Richest Get Richer." the subheadline: "Data Show Top 1%"—1 percent of income earners—"Got 60% of the Gain in the 80's Boom."

So when we talk about where the deficit came from that we are trying to dig out of, we have to look backward at that Reaganomics strategy and those huge tax cuts, most of which went to the wealthiest people in our country and have tipped the whole balance, the whole equity balance, off in the Nation. And so health care costs, looking forward—unconscionable tax cuts stacked toward the wealthy, looking behind us—this problem has come from those two directions.

I ask unanimous consent that these items be printed in the RECORD.

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

TAX BILL'S ESTIMATED REVENUE IMPACT

[Fiscal years, in millions of dollars]

Provisions	1981	1982	1983	1984	1985	1986
Individual income taxes	−39	−26,929	−71,098	−114,684	−148,237	−196,143
Business tax cuts	−1,562	−10,657	−18,599	−28,275	−39,269	−54,468
Energy taxes		−1,320	−1,742	−2,242	−2,837	−3,619
Savings incentives		−247	−1,797	−4,208	−5,740	−8,375
Estate and gift taxes		−204	−2,114	−3,218	−4,248	−5,568
Tax straddles[1]	37	623	327	273	249	229
Administrative provisions		1,182	2,048	1,856	718	592
Miscellaneous provisions	−1	−104	243	535	53	−275
Total	−1,565	−37,656	−92,732	−149,963	−199,311	−267,627

[1] Figures do not reflect transactions entered into after Dec. 31, 1981.

Source: Joint Committee on Taxation.

EVEN AMONG THE WELL-OFF, THE RICHEST GET RICHER

(By Sylvia Nasar)

Populist politicians, economists and ordinary citizens have long suspected that the rich have been getting richer. What is making people sit up now is recent evidence that the richest 1 percent of American families appears to have reaped most of the gains from the prosperity of the last decade and a half.

An outsized 60 percent of the growth in after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in pretax income—went to the wealthiest 660,000 families, each of which had an annual income of at least $310,000 a year, for a household of four.

While total income for all 66 million American families expanded by about $740 billion in inflation-adjusted dollars during the Carter-Reagan years, the slice belonging to the top 1 percent grew to 13 percent of all family income, up from 9 percent.

BIG JUMP IN INCOME

The average pretax income of families in the top percent swelled to $560,000 from

$315,000, for a 77 percent gain in a dozen years, again in constant dollars. At the same time, the typical American family—smack in the middle, or at the median, of the income distribution—saw its income edge up only 4 percent, to $36,000. And the bottom 40 percent of families had actual declines in income.

"We know that productivity has increased since 1977 and that more people are working," said Paul Krugman, an economist at the Massachusetts Institute of Technology and the author of "The Age of Diminished Expectations," a book that is critical of Reaganomics. "Where did all that extra income go? The answer is that it all went to the very top."

FINE-SIFTING THE DATA

The data were compiled by the Congressional Budget Office, the research arm of Congress, which uses the estimates to project tax revenues; the figures were released in final form in December. The census data that most economists use track incomes by broad categories like the top 20 percent, called the top quintile. The C.B.O. data, by building on figures from tax returns, let analysts focus on narrow income striations with microscopic precision.

"If changes are going on at the top, you don't pick it up in the census data," said Robert Reischauer, director of the Congressional Budget Office.

The broad pattern disclosed by the latest data is not in dispute, but the reasons for the shift are. Potential explanations range from the trend toward lower taxes on the wealthy to an explosion of executive pay to higher returns on capital.

It was not until economists started to analyze the figures that it became clear what a large share of the income gains in recent years was accounted for by the very rich. "The number that no one had seen was how much of the growth went to a few people," said Mr. Krugman, who focused on the numbers in testimony before Congress several weeks ago.

That funding is already supplying fresh ammunition for those eager to reverse the upward tilt in income distribution or searching for new ways to raise Government revenue.

The tax bills wending their way through Congress include an increase in the top tax rate and a surtax on millionaires. And the Democratic party is honing "fairness" as an issue it can run with.

As it happens, the trend seems to have begun 30 years ago and parallels shifts in other rich countries, including Germany and Britain.

"It's been going on since the 1960's," said Robert Avery, an economist at Cornell University who conducted two Federal Reserve surveys of the wealthy in the 1980's. "It shows up in many different sets of data. And it's consistent with different explanations, healthy and unhealthy."

In fact, a growing tilt toward the top has characterized other periods in American history. Economic historians say that industrial America through the 1800's and early 1900's experienced a growing concentration of riches at the top. But that was partly reversed by the Depression and World War II.

"We have a couple of periods when we've seen especially rapid changes," said Claudia Goldin, an economic historian at Harvard University.

The latest data on income distribution do not provide any easy explanation of the trend. One explanation given by some tax experts is that the rich are simply reporting more of their income and taking advantage of fewer loopholes, now that tax rates have been trimmed substantially. The top tax rate on personal income was cut to 31 percent during the Reagan tenure from more than 90 percent during the Kennedy years.

The reason is that suddenly you can keep most of the money you report," said Lawrence Lindsay, a Federal Reserve governor who has written a book, "The Growth Experiment," that defends the supply-side tax cuts of the Reagan era.

THE ADVANTAGES OF TIMING

Most economists find the explanation plausible. Unlike steelworkers or secretaries, business owners and executives often have a lot of discretion over the timing and form of their income. They can decide when, say, to sell a business or whether to take their compensation in a paycheck or a bunch of stock options.

"Inequality has increased back to where it was before the New Deal," Mr. Krugman said. "But maybe the New Deal only drove the rich underground."

Still, few economists are convinced that the reporting factors are the only explanation.

For one thing, wage and salary income for the top 1 percent of families exploded between 1977 and 1989. At least two studies have shown that the rich—wealthy wives, in particular—actually worked more after taxes were cut. More important, the pay of chief executives rocketed during the 1980's. By the end of the decade, according to Graef Crystal, a compensation consultant, the bosses were making 120 times as much as the average worker, compared with about 35 times as much as in the mid-1970's.

Before these new data showed how much of the gains really went to the very top, economists knew of the growing inequality and explained some of it by pointing to the rise in two-earner couples and the faster wage growth of highly educated workers, especially ones with computer skills. But the surge in pay at the top is just too large to be explained solely by working wives and M.B.A. degrees.

Another theory is that inhibitions against pay inequality crumbled during the Reagan 80's, a period in which unions were put down and getting rich through enterprise was seen as heroic.

The families at the top of the top quintile include lawyers married to other lawyers and a sprinkling of rock and baseball stars. But the majority probably own closely held businesses or manage Fortune 500 companies. Another thing that makes these families different from the merely well heeled, said Joel Slemrod, a tax economist at the University of Michigan, is that they get about half their income from their wealth—capital gains, dividends and interest. And income from assets owned by the wealthy, like real estate, stocks and bonds, also surged in the 1980's.

For most of the 1980's at least, interest rates were high, the stock market appreciated some 16 percent a year and the price of real estate on the East and West Coasts soared. The value of small-business assets also grew, Mr. Avery said. "The argument that the rise in top incomes was partly driven by entrepreneurial income is fairly persuasive," he said.

In fact, there is new evidence that net worth—assets minus debt—at the very top also grew disproportionately. The Federal Reserve has yet to release data with breakdowns, but a recent Fed study suggests that that was the case.

While some view the greater concentration of income at the top as a problem, many economists do not agree. "The probability that you're looking at the same people at the start or end of a decade is very small," Mr. Lindsay said. "If the top 1 percent is getting richer, it means that there was a lot of upward mobility in America during this period."

Mr. Lindsay cites tax data that show that of the families in the top 1 percent at the beginning of a decade, fewer than half are in the top 1 percent 10 years later. From year to year, he said, between a quarter and a third of families move from one broad income group, like the top 20 percent, to another.

Keep in mind, moreover, that 1989, the last year for which Congressional Budget Office numbers are available, represented the peak of the 1980's financial boom. The early 1990's have already clipped the wings of a lot of high-fliers as corporations have shed executives, law firms have downsized, businesses have failed and real estate values have collapsed.

But it is easy to exaggerate fluidity at the very top, some economists say. For one thing, the rich may get knocked off their perches from time to time, but the fall for most is not usually all that far. Then too, an income drop is as likely as not to reflect a decision to take a one-time loss than it is a permanent change in the ability to generate income.

Besides, said Frank Sammartino, an economist at the C.B.O.: "People complain that the income distribution is just a snapshot of one year. But after all, taxes get paid on one year's income."

THE TAX FACTOR

Although families in the top 1 percent paid slightly less than 27 percent of their income in taxes in 1989, compared with more than 35 percent in 1977, their payments amounted to a somewhat bigger share of the total Federal tax bill than in 1977. The reason, of course, is because their incomes grew so much.

With incomes that total near half a trillion dollars—about the same amount, coincidentally, as total Federal tax revenues—the top 1 percent of American families have a lot of financial heft.

"If you're talking about the income tax bubble or capital gains, it's not the top 5 percent or the top 10 percent, but the top 1 percent," Mr. Avery said. "If they're taxed at 100 percent, everybody else can be taxed at zero," he added jokingly.

The data are going to keep economists busy for years and should pay fat dividends for Americans' understanding of how the freewheeling United States economy really works. But, for the present, the numbers are bound to provide yet another battleground for politicians arguing over which tax policy will produce the best combination of growth and "fairness."

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is the manager of the bill. The Senator from Tennessee is recognized.

Mr. SASSER. I just inquired of my friend from New Mexico—time is moving fast on us. We have had a good debate on the Senator's initiative. I am wondering if we could make some progress now on disposing of the rest of these amendments. The distinguished

Senator from Arizona is on the floor ready to take up his amendment. I am told it can be disposed of in 10 minutes. Is the Senator going to request a rollcall vote?

Mr. DECONCINI. Yes, I am.

Mr. SASSER. Ten minutes for a rollcall, and then we can dispose of that one.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I am going to yield to my friend very shortly. I want everyone to know we have Senator D'AMATO ready to follow so we ought to move along rather quickly.

Mr. President, I want to make just three points. One, I do not think anyone should really be misled that we are going to solve the problem of burgeoning entitlements, mandatories, that we discussed here today by imposing taxes on the American people or American business in any proportion that will get rid of that entitlement deficit. It is preposterous from the standpoint of economic growth to think that we are going to impose taxes to do that. It just is not going to work.

Now, I want to thank Senator DOLE for assisting us with this underlying amendment, which we have withdrawn. He wants to appear as an original cosponsor even though we have withdrawn it. I ask unanimous consent that he be so shown.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, if the debate was satisfactory and successful, then one of two things will occur. We will either resolve this issue in the near future—that is No. 1—or if we do not, then at least the debate will have left the burden right where it belongs. If we in Congress do not find a way to control this, then today's debate is notice to everyone, to Americans, to disabled veterans, to those who are collecting Medicare and Medicaid and, yes, to that three-fourths of Americans who get entitlements who are not poor, until we fix this, there is no real future for our children. That is what this debate should do. If it has done that, it has been successful. If not, we have wasted a lot of time discussing important things obviously to no end.

I yield the floor.

Several Senators addressed the Chair.

Mr. COATS. Mr. President, before the Senator yields the floor, I wonder if I might just—I know the Senator from Arizona is waiting to offer an amendment. I will take no more than 2 minutes. If the Senator will yield me 2 minutes on the resolution, I would like to speak.

Mr. DOMENICI. I yield 2 minutes off the resolution.

Mr. COATS. Mr. President, I commend the Senator from New Mexico for raising before this body a subject that everyone in this room knows needs to be discussed and debated. He did an excellent job. The majority leader said it needs to go through a more lengthy process. It probably does. It does deserve hearings. It does deserve serious discussion. But every one of us, or at least anyone who has given serious thought to the future of this country, knows we have to deal with this issue and deal with it sooner rather than later.

I regret we were not able to deal with it as a package and do it in a way that the decision made by this body would become policy. That will, hopefully happen at some point in the near future, and I am prepared to do that today, this weekend, next week, next month, whenever.

The problem is so serious, the need is so great that all of us have to find a way in which to address it in a responsible manner or the entire Republic is in jeopardy. I wish we could stop playing the games, stop playing the political games of "we are going to put you on the spot" or "we will put you on the spot" and step back and do what we all know we need to do. Whether this is the right vehicle, whether there is a difference procedure, I really cannot say.

I commend the Senator for raising the issue. We had an instructive debate. I think we are moving in the right direction. Obviously, voting on exempting one piece of the puzzle was purely a political vote, particularly whenever one knew that the resolution was going to be withdrawn.

Obviously doing it on the budget resolution is a free shot because it does not have the force and effect of law. But if we are willing to make decisions that do have the force and effect of law, I want the people that I represent and I want the Members of this body to know that this Senator is ready to make those tougher decisions and make those tough votes if it really counts.

I yield the floor.

Mr. SARBANES. Will the Senator yield?

Mr. COATS. I do not have control of the time.

Mr. SASSER. I yield to the Senator 1 minute.

Mr. SARBANES. I say to the managers, I do not know whether we will reopen the debate on this amendment. We are perfectly happy to do it. If they want to talk about a game being played, it is offering a far-reaching amendment of this sort without ever having hearings on it, offering it in the committee, having it considered in any of the forums that prepare the legislation, and then bringing it out here on the floor of the Senate. If they want to talk about a game being played, which was the expression that the Senator used, if we want to reopen this debate, I am happy to do it. I thought we had finished the debate, and were ready to move on and try to finish the bill to accommodate a lot of Members.

Mr. COATS. I would simply——

The PRESIDING OFFICER. The Senator has yielded the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized. He has been seeking recognition, unless the manager has requested recognition, which I did not hear.

Mr. SASSER. Mr. President, the Senator has been seeking recognition. I was under the impression there had been a conversation between my distinguished colleagues, Senator SIMPSON and Senator DECONCINI, in which there had been an agreement Senator SIMPSON might proceed for 2 minutes.

Mr. DECONCINI. The chairman is correct.

Mr. SASSER. I assume Senator GORTON will yield Senator SIMPSON some time.

Mr. President, Senator SIMPSON will be yielded 2 minutes, as I understand it, off the time of the ranking member of the Budget Committee.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 2 minutes.

Mr. SIMPSON. I thank my friend from Arizona, Mr. President. I thank Senator SASSER.

I have listened to the debate. I speak for 2 minutes simply to say that I have chaired the Veterans' Affairs Committee. It is a very tough situation. Senator CRANSTON chaired it before me.

I think it is so important to realize that this is not some antiveteran vote. I have been here long enough to see the easy vote is cast often by people in this Chamber who are not veterans. A nonveteran finds this a very attractive vote always. Those of us who served in the military try to play up front and correctly with it.

I can only tell you that in my time as chairman one realizes how many veterans there are who are disabled, service—connected disabled veterans who have nothing to do with the combat-connected disabled veterans who have nothing to do with the combat situation. That seems to be forgotten continually in this debate. Non-service-connected veterans are being limited by their care because other veterans with no priority are crowding them out. It is becoming an absurd situation.

We need to pay close attention to that. Realize that the veterans number under this budget is $34.5 billion. That is taking care of the veterans very well. There are 27 million of us.

I commend the Senator from New Mexico. This debate has to take place. It will take place. And thoughtful Democrats and thoughtful Republicans will help get it done or in the year 2030 this country will be in dramatic decline.

AMENDMENT NO. 1780

(Purpose: To express the sense of the Senate with respect to funding for the Special Supplemental Food Program for Women, Infants, and Children)

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 bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. CHAFEE, Mr. LEAHY, Mr. SPECTER, Mr. JOHNSTON, Mr. LUGAR, Mr. BRADLEY, Mr. DOLE, Mr. GRAHAM, Mr. MCCONNELL, Mr. RIEGLE, Mr. WARNER, Mr. AKAKA, Mr. MURKOWSKI, Mr. SIMON, Mr. DANFORTH, Mr. WELLSTONE, Mr. DURENBERGER, and Mr. DODD, proposes an amendment numbered 1780.

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 the resolution, add the following:

SEC. . SENSE OF THE SENATE ON WIC.

(a) FINDINGS.—The Senate finds that—

(1) the Special Supplemental Food Program for Women, Infants and Children (WIC) has been invaluable to millions of needy pregnant and nursing women, infants and children at nutritional risk for nearly 20 years;

(2) President Bush has commendably recommended an increase in the WIC program for fiscal year 1993, continuing the strong bipartisan support for expanding the program to serve more of those eligible;

(3) the chairmen of five major American corporations testified last year on WIC, declaring that an increased investment in WIC is essential to the Nation's future economic growth and that "WIC can make an important contribution to ensuring that * * * we have the productive workforce we need";

(4) the CEOs called WIC "the health-care equivalent of a triple-A rated investment. * * * one of the most reliable ways that Government can invest its resources," and recommended that to achieve the national educational goal established by the President and Governors that by the year 2000 all children should start school ready to learn, "* * * we need to set a related goal: Every woman, infant, and child who is eligible for WIC in 1995 and later years will be served by the program";

(5) less than 60 percent of the eligible women, infants, and children are served by the program due to funding limitations;

(6) a funding level of $3,000,000,000 in fiscal year 1993 is needed to remain on the 5-year path embarked upon by the Congress last year to reach full funding consistent with the CEO's recommendations; and

(7) a recent United States Department of Agriculture study has demonstrated that the prenatal component of WIC reduces Medicaid costs by between $1.92 and $4.21 for each dollar invested in it, and studies issued by the National Bureau of Economic Research have found WIC to be one of the most cost-effective means of reducing infant mortality and indicate WIC also may produce long-term savings in special educational costs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the WIC program should be funded at $3,000,000,000 for fiscal year 1993.

Mr. DECONCINI. Mr. President, this is a simple amendment. I am not going to go on about how long and how frustrated I am to finally get the floor, through no fault of the chairman of the committee. We have listened to a lot of debates here. I am sorry to have to say, yes, it was a political vote that we just had. However, it was a very good political vote because if demonstrated the people do not want to take an action to cut veterans programs.

I believe we have a program here that everybody will want to add money to. That is the WIC Program. It is a simple commitment here by this body to reinforce the existing commitment to fully fund the WIC Program by 1996.

There is no question that the WIC Program is one of the finest, more cost effective programs that the Federal Government has ever had. Both Houses have passed budget resolutions which include this commitment to fully fund by 1996. But each House each year has had a problem adding enough money to get there.

Mr. President, I want to show you quickly just the problems we have faced. We are here now going into 1993. The amendment I am offering today would express that it is the sense of the Senate to increase the fiscal year 1993 expenditure for WIC by $400 million above the fiscal year 1992 level of $2.6 billion.

Mr. President, the effectivenss of this program is no secret. For every dollar that is spent on the prenatal component of the WIC Program, there is a Medicaid savings of between $1.77 and $3.13. Unlike the prior amendment by my friend from New Mexico this amendment seeks to save Federal dollars by investing in Americans, the Women, Infants, and Children Programs.

This indicates where we are. It shows we are only serving about 55 percent of the eligible WIC populations. You can see that steady progress has been made since 1984, but in the 1989 chart behind me progress ended because the economy went into the doldrems. Mr. President, this is a real shame. We cannot even take care of the most precious recource of this country, our infants.

Mr. President, it is time that we go on the record. Even though this amendment carries no weight of law the DeConcini-Chafee amendment will help us in the Appropriations Committee process to try to get the full funding. The amendment merely calls for another $400 million for the WIC Program in fiscal year 1993. That level is $160 million more than the amount requested in the President's budget.

Mr. President, in the interest of time I will yield at this point to the Senator from Rhode Island. I thank him for his cooperation, and support of this amendment.

Mr. CHAFEE. Mr. President, I want to commend the distinguished Senator from Arizona. He and I have worked together on this for many years. Each year we have been able to increase the funding for the WIC Program. Everything he says about the WIC Program is absolutely right. The only problem is, as he points out now, it is covering about 55 percent of those eligible.

This asks for a modest step up to $3 billion a year. We have some 86 colleagues joining us in connection with this entreaty to the Appropriations Committee, and I do hope that we will get a very solid vote in favor of this amendment.

Mr. DECONCINI. Mr. President, I rise today to offer a sense-of-the-Senate amendment to the fiscal year 1993 budget resolution, Senate Concurrent Resolution 106. This amendment expresses the sense of the Senate that the Special Supplemental Food Program for Women, Infants, and Children be funded at $3 billion for fiscal year 1993. I am pleased that this amendment has been cosponsored by 18 of my distinguished colleagues: Senators CHAFEE, LEAHY, SPECTER, JOHNSTON, LUGAR, BRADLEY, DOLE, GRAHAM, MCCONNELL, RIEGLE, WARNER, AKAKA, MURKOWSKI, SIMON, DANFORTH, WELLSTONE, DURENBERGER, and DODD.

Mr. President, for the past several years my friend from Rhode Island, Senator CHAFEE, and I, together with the distinguished chairman and ranking member of the Agriculture Committee, Senator LEAHY and Senator LUGAR, have led efforts in the Senate to increase appropriations for the WIC Program. As my colleagues will recall, last year we sought to increase WIC funding by $250 million over the prior year's current services level in order to maintain the schedule for full funding of WIC by 1996.

Despite a record number of cosigners last year for the DeConcini-Chafee annual WIC appropriations request, WIC's enacted level was a full $100 million short of the fiscal year 1992 target of $2.7 billion. While it is very hard to imagine that 88 Senators can agree on anything these days, it is even harder to imagine that such a consensus could be formed and fail to achieve its goal. But that is exactly what occurred.

Mr. President, I do not find fault in any way with any of the Senate or House conferees on last year's agriculture appropriations bill. Their task was nearly impossible given an insufficient subcommittee allocation to meet all the demands placed upon them. Continuing crop disaster insurance problems and other problems made their decisions all the more difficult. I sincerely applaud the efforts of the Senate Agriculture Subcommittee chairman and ranking member. Chairman BURDICK and Senator COCHRAN have consistently done whatever they could on behalf of WIC. Their efforts last year were no less than exceptional.

However, the fact remains that we could not enact an appropriations level of $2.7 billion. As a result, this year's

and the next 3 year's efforts will be all the more difficult if the Members of both the House and Senate sincerely intend to keep our pledges for full funding of WIC by fiscal 1996. For myself, I remain committed despite recent setbacks. WIC is too important and, whatever the cost, we are going to have to find the money.

Mr. President, my reasons are simple. WIC is a Federal domestic program that clearly works. That is why I have been an advocate for WIC since its inception. It is the right thing to do. WIC not only prevents infant mortality and low birthweight, study after study has also shown that WIC is the most cost-effective method to do so. WIC reduces Medicaid costs: Each dollar invested in WIC's prenatal component saves between $1.77 and $3.13 in Medicaid costs. In addition, studies show that future special education costs are reduced through WIC's early nutrition intervention.

Despite this remarkable record, WIC has yet to achieve its full potential. Current funding levels support less than 60 percent of the eligible women, infants, and children nationwide. My home State of Arizona currently receives funding that enables the WIC Program to assist about 60 percent of the eligibles statewide, but serves barely 40 percent of those eligible in the urban areas.

Yes, the Federal taxpayer does, indeed, pay quite a bit already for WIC. WIC currently provides critical nutrition and health benefits to an estimated 5.3 million low-income pregnant women and young children at risk of diet-related health problems. Yet almost as many other needy women and children are unserved. Tragically, America ranks 19th in the world in infant mortality. Every year 40,000 infants die in the United States and another 11,000 babies are born with long-term disabilities that result from their weakened condition.

Mr. President, the sad truth is, unless we act—and act soon—to provide full funding for WIC, we will lose more American infants in the next 13 years than we have lost soldiers in all the wars fought by this country in this century. Let me say that again, without full funding for WIC, America will lose more infants in the next 13 years than we have lost soldiers in all the wars fought by this country since the turn of the century.

The magnitude of this loss of life is certainly compelling. It should be reason enough to act. Failure to fully fund WIC is also irrational from a purely fiscal perspective. WIC has been shown over and over to be among the best, if not the best, means to prevent infant mortality and low birthweight. Today, the lifetime costs of caring for just one low birthweight infant can total $400,000. The cost of prenatal care—care that might prevent the low birthweight condition in the first place—can be as little as $400. As a nation we have a clear choice. We can pay more now, or we will pay far more later.

Congressional efforts to date have also failed to keep pace with the WIC full funding schedule by 1996 for other reasons. The most important of which is that the number of new poor at nutritional risk is growing faster than our ability to serve them. The deep recession and a small increase in the birthrate have all but halted our progress toward WIC full funding. As shown here on a chart depicting actual Federal funding of the WIC Program from 1984 through 1992, Congress and the President have increased funding for WIC since 1984. In fact, WIC funding has almost doubled since 1984 faster than any other nondefense, domestic program. However, high unemployment and rising poverty rates, together with an increase in the birthrate, have all but stalled the rate of growth in terms of percentage of eligibles served.

The other chart I have here today tracks the percentage of the eligible WIC population served. Despite a record funding increase of $779 million over the last three fiscal year, the percentage of eligibles served has remained virtually constant. We are certainly serving more individuals, but the number of eligible women, infants, and children simply has risen much faster.

The chart on annual Federal expenditures for WIC also shows the increases needed to achieve full funding in fiscal 1996. Given the most recent Congressional Budget Office estimate for full funding by fiscal 1996, the WIC Program would require an additional $412.5 million in funding every year for the next 4 years to achieve a full funding level of $4.25 billion.

Mr. President, I know that it sounds like full funding will be an impossible task. However, Senators CHAFEE, LEAHY, LUGAR, and I have gone too far to turn back now. The House and the Senate are now on record in support of full-funding of WIC by fiscal 1996. But, we have a long way to go. For myself, I am committed to pressing the issue as hard as I can and as often as it is required to achieve that goal. That is why I have offered this amendment at this time. While I am certain that the floor managers would accept this sense-of-the-Senate resolution given their longstanding support for WIC full funding, I am insisting on a recorded vote to dispel any doubt that the Senate is not firmly committed to full funding of WIC by fiscal year 1996.

Mr. President, the bottom line is: WIC is a Federal initiative that works and we should work to make it a reality for the millions of women and children whose health will continue to suffer without it. I haven't given up all hope that we can achieve full funding by fiscal 1996. However, we can't get there without making some tough choices. I urge my colleagues to make the right choice at this time and support the DeConcini-Chafee WIC amendment to the fiscal year 1993 budget resolution.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I am pleased to cosponsor this sense-of-the-Senate resolution which affirms the longstanding position of the Senate that funding for WIC should be increased by amounts that will put us on a path to achieve full participation of all eligible women and children.

Few programs have enjoyed the consistent bipartisan support and consistent grassroots support that WIC has. Few programs have been shown to be as effective as WIC. Even fewer programs have been shown to be as cost-efficient as WIC.

We've all heard the statistics many times, but some bear repeating. USDA has found, for example, that the prenatal portion of WIC reduces Medicaid costs by between roughly $2 and $4 for each dollar we invest by reducing the incidence of low birthweight births and premature births. Other studies have found similar long term savings in special educational costs and other programs by helping reduce the incidence of disabilities related to deficient nutrition in pregnant women and young children.

Louisiana has one of the youngest populations in the United States: About 29 percent of Louisiana's population is composed of children. Some 30 percent of these children live in poverty. We have the dubious distinction of ranking second from the bottom—49th—in low birthweight, and experience one of the highest infant mortality rates in the Nation—11 percent. Almost 7 percent of babies in Louisiana are born to mothers receiving no or late prenatal care, ranking us seventh from the bottom in terms of adequacy of prenatal care.

Since its beginning in Louisiana in 1974, WIC has been an integral and key part of preventive health services. This program currently serves 132,000 participants each month—33,000 women, 37,000 infants, and 62,000 children. Yet, projecting from 1980 census data, Louisiana's Office of Public Health estimates that 203,000 women, infants, and children are eligible for and need the critical assistance which WIC provides.

The funding level recommended by this resolution, $3 billion, will not enable us to reach the 71,000 women and children who are eligible but do not participate in Louisiana this year. But the increase recommended will help us reach more, and put us on the right track to assuring that all those from

this vulnerable population—pregnant and post partum women and children under the age of 5 who are at nutritional risk—receive critical nutrition and preventive assistance. We should do no less.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Tennessee for making this expeditious arrangement to offer this amendment. The poor man, I am surprised he can even stand up after what he has been through in the last 3 or 4 days. I appreciate his courtesy.

Mr. SASSER. I thank the Senator.

Mr. CHAFEE. Mr. President, I am pleased to join my colleague from Arizona, Senator DECONCINI, in offering this amendment regarding fiscal year 1993 funding for the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Simply stated, the amendment expresses the sense of the Senate that WIC should be funded at $3 billion in fiscal year 1993.

Last year, 86 of our colleagues joined Senator DECONCINI and myself in requesting a full $2.7 billion for WIC in fiscal year 1992. I was pleased that the Appropriations Committee gave us $2.6 billion—an increase of $250 million over the 1991 appropriation, and the single largest increase in funding in WIC's history. What good news.

I also am pleased that President Bush recommended $2.86 billion for WIC in fiscal year 1993. While this figure represents a real boost, I believe we must go a little further if we intend to reach those children and women now in need. The funding level of $3 billion called for in the amendment builds on last year's accomplishments and will keep the momentum going toward fully funding WIC within the next few years.

Mr. President, 2 weeks ago, I voted against the amendment to take down the so-called firewall governing the limits on military and domestic spending in the Federal budget for fiscal year 1993. This amendment would have allowed reductions in defense spending to be used for domestic programs, rather than to reduce the deficit as called for by the Budget Enforcement Act of 1990. Both the House and Senate have now reaffirmed support for the discipline imposed by that budget agreement, refusing to remove the firewall.

This is not an easy choice since it is clear that we need to resolve urgent domestic problems such as the lack of adequate health care, housing, and education. But the budget agreement does not prevent us from working within the domestic discretionary cap to identify programs that have proven to be effective and deserve priority during the appropriations process.

As the Appropriations Committee begins to assign priorities within the domestic discretionary cap for the coming fiscal year, this amendment sends an important signal. For Senator DECONCINI and myself, increased funding for WIC has long been a priority.

The WIC Program provides food to low-income mothers and their children who are at risk of serious nutritional deficiencies. It sounds simple, but making sure that mothers and children receive good, basic, nutritious foods and avoid nutritional deficiencies is remarkably effective.

We know beyond a shadow of a doubt that for every $1 invested, WIC saves about $3 in long-term health care costs and developmental problems. A USDA study has documented that for every pregnant woman who participated in WIC, the Government saved between $277 and $598 more in Medicaid costs in the first 60 days after birth than for a pregnant woman who did not participate.

The savings are important; but that is not all we should thank WIC for. WIC reaches infants and children at the most critical stage in their physical and mental development. Without proper nourishment, the cognitive development of a young child can be severely impaired and can mean impairment of cognitive functions. That child is then behind the curve in terms of learning ability. And he or she isn't even 5.

WIC also helps mothers. It helps them understand more about good nutrition, and it eases their entry into the health care system. A mother who is used to going by the community health center to pick up the WIC foods feels more comfortable going back to the center for medical care, or for referrals to other agencies that can help her.

Sadly, however, this worthwhile program serves only about half of the eligible population. In Rhode Island, for example, an estimated 32,000 women, infants, and children are eligible for WIC benefits, but funding levels permit only 17,550 to be served. Rising food costs, especially in these difficult economic times, also have diminished the purchasing power of WIC dollars and have forced States to limit their WIC caseloads. This gap in coverage represents a considerable missed opportunity, considering WIC's proven effectiveness for an especially vulnerable population.

Of course I am preaching to the choir: Congress knows of WIC's benefits, and has given the program considerable support, and for good reason: WIC means healthy children, and healthy children can learn, and eventually become productive members of tomorrow's work force.

Increasing funding for WIC is the right thing to do—not only from the hard-nosed, cost versus benefit point of view. WIC is one Federal program that saves more than it spends, and deserves every bit of support we can give it. I urge my colleagues to join us in supporting this amendment.

Mr. DURENBERGER. Mr. President, I am proud to cosponsor this resolution to increase funding in fiscal year 1993 for the Women, Infants, and Children [WIC] program, and I applaud the foresight of Senators CHAFEE and DECONCINI for introducing this amendment. This resolution will allow us to remain on the 5-year path to reach full funding by fiscal year 1996.

The WIC Program has been in existence for well over a dozen years, and was created for the purpose of supplementing the special nutritional needs of pregnant women, nursing mothers, their infants, and small children. On any given day, my colleagues and I could visit a WIC recipient in our respective States and see first-hand the impact that it is having on the lives of millions of women and their children. But without the need for closer examination, you would also see a multitude of reasons to increase the Federal commitment to the WIC Program.

Mr. President, according to a study done by the U.S. Department of Agriculture, WIC sharply reduces future Medicaid health costs for the mother and child and also results in improved birthweights. The study found in its sample of States that when mothers received program foods before birth, the Government's Medicaid spending averaged between $277 and $598 less for health care of the mother and child in the first 60 days after birth than in cases where the mothers did not receive special prenatal foods.

This study is further evidence that in addition to the programs proven importance to low-income families, it is also a fiscally responsible program that has demonstrated itself to be a worthwhile public investment. For every dollar spent on WIC, the Federal Government saves up to $4.21 on future program expenses. This is a return investment that is not often found in programs administered by the Federal Government.

My support of this resolution, Mr. President, is not to be taken as critical of the budget request by President Bush. The President deserves great credit for his commitment to WIC, which is demonstrated in his fiscal year 1993 request for a $237 million increase over fiscal year 1992. However, the benefits of this program and the needs of today's low-income families require an even greater investment. In 1991, we were only able to serve about 52 percent or 4.5 million, of eligible low-income pregnant women and children.

Mr. President, lately, many of my colleagues have echoed the concern which I share about the monstrosity that we call the Federal debt. In votes and remarks that I have made, I have indicated that this is truly one of the gravest situations that this Nation has ever faced, and that an examination of our budget priorities is necessary in order to begin significant efforts to deal with it. It is unnerving to me that we have chosen to bankrupt the treas-

ury and spend beyond our means, while expecting future generations to pick up the tab. In examining the WIC program, though, it is important to note that in the long run, WIC not only saves the taxpayer money, but is an investment in the future well-being of America.

Mr. President, I urge my colleagues to show overwhelming support for the WIC Program by voting for this important amendment.

Mr. DOLE. Mr. President, I am pleased to add my name to the list of cosponsors of this amendment. In this time of budget crisis, we'd better have pretty good justification for increasing any Government program. We need to know the program works, and we need to know that its benefits are well-targeted. WIC passes this test with flying colors. Numerous Government studies have documented WIC's efffectiveness. And the poor, nutritionally at-risk women, infants, and children who participate in WIC are among the most vulnerable members of our society.

The additional funding we are calling for isn't for adding frills to the program. It's simply to extend basic WIC benefits to more of the women, infants, and children whose income and nutritional status make them eligible for the program, but who now go unserved. And I would note that the distinguished chairman of the Budget Committee indicated earlier that the budget resolution could accommodate such an increase.

I want to commend the President for again requesting a sizable increase for WIC in his budget. I hope we will be able to do even more, and I encourage my colleagues to aid this effort by supporting this amendment.

Mr. SPECTER. Mr. President, I am pleased to support this amendment offered by my distinguished colleague, Senator DECONCINI, to encourage increased funding for the WIC Program, which provides critically important nutritional assistance to millions of low-income pregnant women and children.

The President has recommended in his budget request to Congress an increase in the WIC Program for fiscal year 1993, and I am hopeful that the Senate Appropriations Committee will be able to achieve the $3 billion funding level necessary to achieve full funding of WIC within 5 years.

Mr. President, there are few programs that are so effective as WIC in helping truly needy people in this country, by significantly reducing infant mortality, averting low-weight births, and improving prenatal care. At a time when so much attention is being focused on our Nation's health care system and the need to cut health care costs, WIC is proven to reduce medical costs not only in the short term, but in the long term, by increasing the productivity of our children.

The statistics for the WIC Program are both remarkable and heartwarming. In fact, a 1990 U.S. Department of Agriculture study demonstrated that for each dollar invested in WIC prenatal care, anywhere from $1.92 to $4.21 is saved in Medicaid costs in the first 60 days after birth. For every pregnant woman who participated in WIC, this investment translates into Medicaid cost savings of anywhere from $277 to $598.

According to a recent Congressional Budget Office report, it is estimated that participation in WIC by pregnant women on Medicaid increased average birthweight anywhere between 51 grams and 117 grams. For preterm infants, the increase was even greater: From 138 grams to 259 grams, a significant figure given that low birthweight is one of the leading causes of infant mortality. In addition, Mr. President, WIC participants are far less likely to receive inadequate prenatal care and averaged one or two more prenatal visits than non-WIC women with similar demographic characteristics.

Mr. President, according to the Pennsylvania Department of Health, the WIC Program in Pennsylvania has made significant progress, with 350 facilities serving nearly 260,000 participants, which represents 76 percent of the eligible population. However, many women and children fall through the cracks, in Pennsylvania, and in the Nation at large, where the latest CBO report indicates that less than 60 percent of the eligible population is being served through WIC.

Last year, 86 Senators signed onto a joint Senate letter to the chairman and ranking members of the Agriculture Appropriations Subcommittee, requesting them to support increased funding for WIC in fiscal year 1992. I ask that my colleagues continue to show such overwhelming support for this worthwhile and effective program, to enable all eligible pregnant women, infants and children to receive the vital nutrition and health care assistance provided by WIC.

The PRESIDING OFFICER. Is there further debate on the amendment? Is all time yielded back? All time has been yielded back.

The question is on agreeing to 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 New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—93

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Grassley	Nunn
Bond	Harkin	Packwood
Boren	Hatch	Pell
Breaux	Hatfield	Pressler
Brown	Heflin	Pryor
Bryan	Helms	Reid
Bumpers	Hollings	Riegle
Burdick	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Johnston	Roth
Chafee	Kassebaum	Rudman
Coats	Kasten	Sanford
Cochran	Kennedy	Sarbanes
Cohen	Kerrey	Sasser
Conrad	Kerry	Seymour
Craig	Kohl	Shelby
Cranston	Lautenberg	Simon
D'Amato	Leahy	Simpson
Daschle	Levin	Smith
DeConcini	Lieberman	Specter
Dodd	Lott	Stevens
Dole	Lugar	Symms
Domenici	Mack	Thurmond
Durenberger	McCain	Warner
Exon	McConnell	Wellstone
Ford	Metzenbaum	Wofford

NAYS—0

NOT VOTING—7

Bradley	Garn	Wirth
Danforth	Gramm	
Dixon	Wallop	

So the amendment (No. 1780) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will kindly take their conversations from the Chamber.

The Senator from Tennessee.

Mr. SASSER. Mr. President, we have only a few remaining amendments. We are going to work our way through these diligently, and as speedily as possible.

The distinguished Senator from Delaware has an amendment which will be accepted, but the distinguished Senator, as I understand, wishes 2 minutes to address the body on his amendment.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH].

AMENDMENT NO. 1781

(Purpose: To express the sense of the Congress to establish a Commission on Federal Government Reform)

Mr. ROTH. 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 Delaware [Mr. ROTH] proposes an amendment numbered 1781.

Mr. ROTH. 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 the resolution, add the following:

SEC. . COMMISSION ON FEDERAL GOVERNMENT REFORM.

(a) FINDINGS.—THE CONGRESS FINDS THAT—

(1) The American people face a crisis of confidence in the Federal Government, which cannot be remedied without dramatic and fundamental reform;

(2) Recent polls indicate that an all-time low of only 17 percent of the public approves of Congress, that 78 percent are dissatisfied or angry about the Federal Government, and that Americans think an average of 48 cents out of every dollar in federal taxes is wasted;

(3) While the American people are demanding more performance from their government for the taxes they pay, Congress and the Executive branch still debate the same old options of fewer services or higher taxes;

(4) The public wants governmental institutions that respond quickly to citizens' needs, with high-quality services delivered at the minimum necessary cost;

(5) The Federal Government has many talented and hardworking employees whose effectiveness is hindered by existing organizational structures and operations;

(6) Some governmental organizations have become inefficient and have structures and missions not reflecting current domestic and international priorities;

(7) Some of these organizations were developed during the industrial era, and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command;

(8) Such governmental organizations are so obsessed with regulating processes and procedures, that they have ignored the outcomes of their programs;

(9) Unlike the Federal Government, American corporations and State and local governments are making revolutionary changes by streamlining their organizations, decentralizing authority, flattening hierarchies, focusing on quality, and emphasizing responsiveness to the customer; and

(10) There is now a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) a Commission on Federal Government Reform should be established to examine the organization and operations of the Federal government. In developing recommendations to improve governmental performance while minimizing costs, the Commission should consider ways to:

(A) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and results-oriented accountability;

(B) reform personnel systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, and reward excellence;

(C) increase program responsiveness, by eliminating unnecessary paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(D) consolidate and streamline departments, agencies, and programs where possible so as to reduce costs, minimize hierarchy, and focus responsibility;

(E) control the payroll costs of government while providing appropriate levels of staffing to meet program needs;

(F) promote the application of new information technologies, to improve management and reduce administrative costs; and

(G) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches, and greater attention to the long-term impacts of budgetary and policy decisions.

(2) Congress should be mandated to consider the recommendations of the National Commission.

Mr. ROTH. Mr. President, this amendment expresses the sense of the Congress that a national commission should be established to examine the organization and operation of the Federal Government. The primary focus of the commission should be to develop recommendations to improve governmental performance while minimizing costs to the taxpayer.

As we debate the budget resolution, this is an appropriate time to take stock. Our constituents are expressing an enormous amount of frustration with the Congress and the Government in general. The American people have probably never been more angrier with the Federal Government. The American people deserve an economy that promotes jobs, opportunity and growth. And the American people deserve a Government that provides an environment for economic competitiveness.

The No. 2 challenge facing our Nation is economic competitiveness. During the next several years leading into the 21st century, America is going to be challenged with an increasing global competition that will test our strongest, most competitive businesses. We need a Government which will provide an environment to meet this challenge. Instead, we have a Government which is virtually incapable to helping our Nation compete internationally. The American people, unfortunately, see Government as the problem, not the solution. We need to make Government more responsive to the needs of our Nation, and bring Government back to the people.

Earlier this week, I introduced S. 2531, legislation that will allow us to break the political gridlock that has stifled any real Government reform—legislation that will enable both sides of the aisle to work together to reenvision and then reinvent not only the Federal Government, but Congress as well. Clearly, a complete reexamination of the organization and operations of the executive and legislative branch is now required. The ranking member of the Budget Committee and the senior Senator from Oklahoma have introduced legislation to study the legislative branch. This sense of the Congress states that we should establish a national commission to study and make recommendations concerning the entire Federal Government.

Can anyone among us say today that the Federal Government is operating as effectively, as efficiently, as productively and responsibly as possible in meeting the complex needs of modern America? Can anyone among us say that our Government is adequately preparing our Nation—the men, women, families (the manufacturers, farmers, and businesses of America)—for a bright and a prosperous future? A future in which we, as a Nation, will continue to be first among equals? A Nation which leads by example? Can anyone say even that our taxpayers—the hard-working men and women who support the Government—are getting their money's worth? Unfortunately, the answer to the questions is a resounding "no."

Political gridlock in the Congress and the White House has reached an untenable level. In the increasing global competition that we face, the Congress, administration, and the private sector must work together to meet this challenge. We need to establish a mechanism which will allow us to rise above the political fray and do what's best for our Nation. Several years ago, the Congress faced a very similar situation concerning the decision as to which domestic military bases to close. We establish a very active, powerful commission to present Congress with a list of bases to be closed—and for the first time in more than 15 years, bases are being closed as our Nation's defense is being restructured.

Who among us could argue against a commission which would:

Define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and results-oriented accountability;

Consolidate and streamline departments, agencies, and programs, so as to reduce costs, minimize hierarchy, and focus responsibility;

Reduce the size of the Federal work force through attrition and redirect funding toward improved training and rewarding excellence; and

Develop mechanisms to promote greater attention to the long-term impacts of budgetary and policy decisions.

Make no mistake, Mr. President, I am not singling out Federal employees for criticism. In truth, the Federal Government has many talented and hard-working employees, but their effectiveness is seriously handicapped by existing organizational structures and operations. The real problem is with the bureaucracy—not the so-called bureaucrats. Too many Federal institutions have become bloated and inefficient, with structures and missions not reflecting current domestic and international priorities. They are slow and unresponsive. And they cost far too much for what they accomplish.

The budget resolution we are considering includes a number of rec-

ommendations for Government efficiencies—Federal work force attrition—80 percent replacement, legislative branch 5 percent across the board reduction, Executive Office of the President—5 percent across the board reduction, the offices of the Secretary in all executive departments 5 percent across the board reduction, 2 percent reduction in travel and communications, 10 percent reduction in consulting services, and a 10-percent reduction in agency aircraft use. I strongly support all of these efforts to reduce administrative expenses of Government. But we should develop a more rational approach. This is best accomplished through a national commission—a commission powerful enough like the Base Closure Commission to rise above the political fray and special interests and do what's best for all of our country.

The public's confidence will return only when we are successful in getting governmental institutions to respond quickly and effectively, with high-quality services delivered at the minimum necessary cost. In other words, it will be when the people are satisfied that the Federal Government is squeezing maximum value out of each tax dollar. Clearly, we have a long way to go to achieve that. But this sense-of-the-Congress resolution is a resolute first step.

The legislation I introduced, S. 2531, establishes such a national commission. The commission's powers are modeled after the Base Closure Commission. Its recommendations would be sent to the President. If approved by the President, the recommendations would go into effect unless disapproved by the Congress. Those recommendations pertaining to either House of Congress would only be voted on by that body. This process will allow the Congress to rise above the political gridlock, stifle special interests, and return Government to the people.

This is a tall order, Mr. President. But it must be done. At the moment there are four conditions that make this proposal ripe: Federal Government institutions are failing to meet basic service needs; there are new sets of management principles and modern technologies that can be employed; and at the moment our Nation literally cannot afford to service the deficit; let alone continue to spend money it does not have on programs that aren't working. Last, the government must be prepared to meet the challenge of global competition during this decade and into the 21st century.

We should promise the American people that we will consider a package of major reforms of the Federal Government before the next election, 2 years from now. We can turn this frustration and crisis in confidence into an opportunity for significant improvement of Government services and efficiency. We owe Americans and the future of America nothing less. I urge the adoption of this amendment.

I yield the floor.

Mr. SASSER. Mr. President, all time has been yielded back on the Roth amendment on both sides.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Delaware [Mr. ROTH].

The amendment (No. 1781) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, on the amendment that the Senate acted upon favorably a moment ago, the amendment of the Senator from Arizona [Mr. DECONCINI], dealing with the Women, Infants, and Children's Program, I ask unanimous consent that the distinguished Senator from New Jersey [Mr. LAUTENBERG] be added as a cosponsor.

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

Mr. SASSER. Mr. President, we are alternating and there is an amendment to be offered here by the distinguished Senator from Minnesota [Mr. WELLSTONE]. It is my understanding that this amendment has been worked out to the satisfaction of all Senators.

I yield to the Senator from Minnesota.

AMENDMENT NO. 1782

(Purpose: To recommend increased budget authority and outlay levels for certain defense industry conversion-related activities)

Mr. WELLSTONE. 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 Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1782.

Mr. WELLSTONE. 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 the bill, add the following:

SEC. . DEFENSE INDUSTRY CONVERSION.

It is the sense of Congress that no less than $1,000,000,000 in budget authority provided in this resolution for the defense function 050 for fiscal year 1993 should be made available for defense industry conversion-related activities such as those within the following programs:

(1) DEFENSE INDUSTRY WORKERS, JTPA-EDWAA.

(2) COMMUNITIES.—

(A) Economic Development Administration.

(B) Community Development Block Grants.

(C) Small Business Administration.

(D) Impact aid grants to school districts.

(3) TECHNOLOGY.—

(A) NSF education grants to engineers.

(B) DOE technology transfer.

(C) National Institutes of Standards and Technology.

(D) Intelligent vehicle highway system 1.

Mr. WELLSTONE. Mr. President, let me first of all, in just a minute or 2, refer to a chart that the distinguished Senator BYRD from West Virginia, President pro tempore, has been kind enough to let me use. These are projections about manpower reductions—I could say womanpower—reductions, as well.

Mr. SASSER. Mr. President, the Senate is not in order, and the Senator from Minnesota deserves to be heard. This is an important amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. WELLSTONE. I thank the Senator from Tennessee. I think what I will do is I will wait until all conversation ceases.

Mr. President, I have waited 3 days to propose this amendment. I only propose the amendment because I think it is important, like everybody else in here, and I would like to have the respect.

Thank you very much.

Mr. President, let me refer to this chart that Senator BYRD was kind enough to let me use. Projections between the years 1993 and 1997—this is reductions—for military personnel, 237,000; DOD civilian personnel 54,000; and defense industry workers, 500,000 to 1 million.

And I thank the Senator from Georgia, Senator NUNN, for his cooperation. He certainly is somebody that I want to work with. What this amendment does is it is a sense-of-the-Congress that no less than $1 billion in budget authority within the Department of Defense be dedicated to conversion activities.

Now, there are many different kinds of programs that we could talk about. But I think the main point—and this is a very small amount of money; it is only a sense-of-the-Congress resolution, and it is only a matter of our giving some direction to steps that I know all of us are committed to—is many people are going to lose their jobs, and they ought to have the opportunity to be able to make the transition. And so we talk about such programs as JTPA the Economic Development Administration, the Small Business Administration, technology transfers.

And the whole impact of this amendment, Mr. President, is that we certainly have to get serious as a nation about conversion. We have to make a commitment to the many men and women who have done so much within our defense industry. We cannot just throw people out in the cold. We have to do the planning.

I am very confident, with the leadership of Senator PRYOR and the whole

commission that he is chairing, that we will make those steps.

Mr. President, let me just conclude by saying this is an amendment that takes us, I think, in the right direction. It is just a signal for the Congress. I look forward to the work of Senator PRYOR, Senator NUNN, and many others in here, to make sure that we go through with the authorization and the appropriation.

Mr. President, I yield back all my time, if the other side wishes.

Mr. DOMENICI. We have no objection, and we yield back any time we have in opposition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota [Mr. WELLSTONE].

The amendment (No. 1782) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the National Commission on Economic Conversion and Disarmament, which was so helpful in disseminating information to every Senator and helping build support for this amendment.

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

NATIONAL COMMISSION FOR ECONOMIC CONVERSION & DISARMAMENT,
Washington, DC, April 9, 1992.

DEAR SENATOR: We strongly urge you to support Senator Wellstone's amendment to the Senate Budget Resolution. The amendment recommends that $1.3 billion in budget authority and over $600 million in outlays be used to fund a variety of programs related to minimizing the economic dislocation associated with cutting the defense budget. It is critical that Congress enact a comprehensive conversion policy this year, as the Bush-Cheney budget plan for FY 1992–1997 calls for discharging almost 350,000 active-duty troops and laying off nearly 150,000 civilian DoD personnel. The plan would also eliminate over 800,000 defense industry jobs and close scores of bases. The impact of these cuts will be felt dramatically in 1992 and 1993. If Congress further cuts the Pentagon budget, a step we support, the need for comprehensive conversion policies becomes greater.

The amendment recommends that $500 million in budget authority and $30 million in outlays be targeted to defense industry worker retraining and community adjustment and community block grants. Another provision that would help communities is the $415 million in budget authority and $340 million in outlays called for by the amendment for Impact Aid Grants. Together these provisions, if actually enacted, would provide much needed assistance for laid-off workers seeking to acquire skills necessary to find new work, and for communities hard hit by major defense contract reductions or base closures. The $200 million that Congress authorized and appropriated for worker retraining and community adjustment as part of the 1991 Defense Authorization Act is insufficient to deal with the current dislocation. In fact, the EDA only received its share of these funds in February 1992, primarily because the White House opposed the entire program.

Another important provision of the amendment that would encourage creation of new businesses and jobs is the call for additional funding for the Small Business Administration. This would help make funds available to subcontractors, who are often the first to be affected by DoD project cutbacks. The health of these firms is often crucial to the economic well-being of surrounding communities.

The Wellstone amendment also recommends that $300 million in budget authority and over $180 million in outlays be used to encourage development and dissemination of technologies essential for the health of our economy and infrastructure.

Finally, and perhaps most importantly, the Wellstone amendment calls for these programs to be funded, but not administered by the Defense Department, DoD should not be the final recipient of these funds because it is not competent to administer programs for minimizing economic dislocation. DoD has every reason not to spend the money for this purpose, as any funds that they do not obligate for adjustment reverts to their general budget. The Pentagon's aforementioned delays in transferring funds in the past demonstrate its opposition to conversion and adjustment. At the very least, a conversion program must involve the federal agencies competent to carry out this mission. Assigning the DoD responsibility for the program could set a dangerous precedent and lead to a difficult transition and further resistance to cuts.

For over 45 years, we have pursued an industrial policy designed to make this nation militarily second to none. Today, we need industrial policies geared to restoring our nation's economy. Economic conversion policies should be at the forefront of efforts to rebuild the U.S. economy after the Cold War. The Wellstone amendment recognizes these realities and deserves your support.

Sincerely yours,
GREGORY A. BISCHAK, Ph.D.,
Executive Director.

Mr. SEYMOUR addressed the Chair.

Mr. DOMENICI. How much time does the Senator desire?

Mr. SEYMOUR. Two minutes.

Mr. DOMENICI. I yield 2 minutes to the Senator from California.

AMENDMENT NO. 1783

(Purpose: To express the sense of the Congress relating to the use of defense-relating savings in the Federal budget to retrain and reemploy individuals who are involuntarily separated from the Armed Forces or become unemployed as a result of reductions in defense spending)

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 legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 1783.

Mr. SEYMOUR. 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 the resolution add the following new section:

SEC. 11. SENSE OF CONGRESS RELATING TO THE USE OF DEFENSE-RELATED SAVINGS IN THE FEDERAL BUDGET FOR RETRAINING AND REEMPLOYMENT OF CERTAIN INDIVIDUALS.

(a) FINDINGS.—Congress finds the following:

(1) In relation to the total amount of anticipated Federal spending in fiscal year 1993 and to the anticipated gross national product of the United States in that fiscal year, the percentage of the fiscal year 1993 budget submitted to Congress by the President that is committed to defense spending is the smallest percentage committed to that purpose since before the entry of the United States into World War II.

(2) In each fiscal year from fiscal year 1993 to fiscal year 1997, real growth in programmed Federal spending for national defense purposes will decline at a rate of four percent per year.

(3) During the ten-year period beginning in 1987 and ending in 1997, approximately 708,000 active duty members of the Armed Forces and civilian employees of the Department of Defense will be involuntarily separated from active duty or become unemployed as a result of reductions in Federal defense spending.

(4) The Office of Technology Assessment estimates that, during the period beginning in 1991 and ending in 1995, between 530,000 and 620,000 employees of private, defense-related industries in the United States will become unemployed as a result of reductions in such spending.

(5) The retraining and re-employment of such members, civilian employees, and employees of private industry is critical to the capability of the private aerospace and defense industries of the United States to develop, commercialize, and market nondefense products and technologies.

(6) The capability of such industries to develop, commercialize, and market such nondefense products and technologies will play a critical role in ensuring the long-term economic prosperity of such industries and the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a meaningful percentage of the savings in Federal defense spending in fiscal years 1993 through 1997 be made available for the establishment of programs to retrain and re-employ active duty members of the Armed Forces, civilian employees of the Department of Defense, and employees of private, defense-related industries who are involuntarily separated from such duty or become unemployed as a result of reductions in Federal spending for national defense.

Mr. SEYMOUR. Mr. President, I rise to offer an amendment to the pending Federal budget resolution expressing the sense of the Congress that a meaningful percentage of the savings achieved in U.S. defense spending from fiscal years 1993 through 1997 be made available to retrain and reemploy both active duty members of the Armed Forces and private sector employees who face involuntary separation or unemployment as a result of the programmed reductions in defense spending that will inevitably occur over this period of time.

The short-term economic dislocations caused by the dramatic reductions in defense spending during this decade require a constructive and coherent response from the Federal Government. While we cannot engineer a new industrial policy controlled exclusively by Washington, Congress should identify an appropriate amount of military cost savings to assist both the citizens in uniform and those in the defense industry who face the loss of their jobs because of the budget decisions imposed from Washington.

During the next 5 fiscal years, the defense budget will go down by at least 5 percent per year. The fiscal year 1993 Department of Defense submission by the President alone represents the smallest percentage of total Federal expenditures since the United States entered World War II. These numbers translate into more than 100 separate weapons program terminations beyond the deep cuts made in personnel, training, and operations and maintenance accounts.

In the meantime, well over 1 million jobs will be eliminated because no one foresees the national security requirement to rebuild our forces and the industrial base that supports them to the levels at which they existed before the demise of the Soviet Union.

I agree with many of my colleagues that private sector-driven changes in management, production, and marketing techniques will ultimately determine the economic future of most defense industries. But a prudent investment of military budget savings into effective retraining programs will assist in the preservation of a highly skilled and experienced work force of former active duty and manufacturing personnel.

And let no one question the value of the investment proposed by this resolution. Last year, the President's National Critical Technologies Panel maintained that 75 percent of the technologies originally developed within the Nation's defense and aerospace sector remained vital to the future economic competitiveness of the United States.

Yet this conclusion, Mr. President, should come as no surprise.

Even during these difficult times of market contraction, the aerospace industry accounts for 10 percent of all American sales to overseas customers—making it the Nation's No. 1 exporter.

The policy of this resolution, therefore, does not embrace a short-term approach to subsidize displaced colonels or aircraft engineers. Rather, it urges an investment in the most promising resources of our economic future—the leaders, managers, technology producers, and exporters who during the 1980's made the most effective contribution to the rebuilding of America's national security posture since the birth of the Soviet Union in 1917.

Mr. President, very briefly this is an amendment that has been agreed to by both sides.

I know time is drawing very short now. We have been working long hours on the budget resolution. This is yet another approach to the defense conversion, conversion of our defense industries, particularly in California, where defense industries are so important.

This is a broader proposal, provides more flexibility, and goes over a longer period of time, I believe, than the previous amendment.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. SASSER. Mr. President, the Seymour amendment is acceptable to us.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. DOMENICI. I yield any time I might have.

Mr. SASSER. I yield back all time in opposition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from California [Mr. SEYMOUR].

The amendment (No. 1783) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 1784

(Purpose: To provide an additional $150,000,000 in deficit savings over the next 5 years)

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 legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] for himself, Mr. KASTEN, Mr. NICKLES, and Mr. SEYMOUR proposes an amendment numbered 1784.

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:

On page 3, line 23, reduce the amount by $30,000,000.

On page 3, line 24, reduce the amount by $30,000,000.

On page 3, line 25, reduce the amount by $30,000,000.

On page 4, line 1, reduce the amount by $30,000,000.

On page 4, line 2, reduce the amount by $30,000,000.

On page 4, line 5, reduce the amount by $30,000,000.

On page 4, line 6, reduce the amount by $30,000,000.

On page 4, line 7, reduce the amount by $30,000,000.

On page 4, line 8, reduce the amount by $30,000,000.

On page 4, line 9, reduce the amount by $30,000,000.

On page 4, line 12, reduce the amount by $30,000,000.

On page 4, line 13, reduce the amount by $30,000,000.

On page 4, line 14, reduce the amount by $30,000,000.

On page 4, line 15, reduce the amount by $30,000,000.

On page 4, line 16, reduce the amount by $30,000,000.

On page 5, line 20, reduce the amount by $30,000,000.

On page 5, line 21, reduce the amount by $30,000,000.

On page 5, line 22, reduce the amount by $30,000,000.

On page 5, line 23, reduce the amount by $30,000,000.

On page 5, line 24, reduce the amount by $30,000,000.

On page 30, line 25, reduce the amount by $30,000,000.

On page 31, line 9, reduce the amount by $30,000,000.

On page 31, line 18, reduce the amount by $30,000,000.

On page 32, line 3, reduce the amount by $30,000,000.

On page 32, line 12, reduce the amount by $30,000,000.

Mr. SASSER. Mr. President, may I inquire of my friend from New York: He had two pending amendments; may I ask which amendment he is offering?

Mr. D'AMATO. This is the amendment dealing with welfare reform, welfare shopping.

Mr. SASSER. I thank the Senator.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, that is exactly what this amendment is. It is an amendment to close a gaping loophole in the current welfare system that permits, and indeed encourages, welfare shopping.

For many years, we have had situations where some social service agencies, some county administrators in various counties in various States, will actually direct people to other States, to States that pay higher benefits. That is absolutely absurd. It is wrong. It is wrong to encourage people to move for higher benefits and out of one's community to avoid the social responsibility that belongs there. I believe that is a problem we can and should deal with, and this amendment does it.

Simply put, my amendment states that if you come into a community and you go on to welfare within that year, you will receive the benefits at the lower amount from the State that you came from. We hope it will stop that abhorrent policy that some have engaged in officially and unofficially, to steer people to higher benefit States.

Let me suggest there are many different types of welfare services that families can receive in social services assistance. In New Jersey, a family of

three can receive as much as $9,000 a year, or $750 a month, in welfare payments. If they move to New York, that same family can receive as much as $14,000 a year simply by crossing the river. Indeed, we have had situations where that has taken place.

We have one county in New York, the county of Niagara, a small county, that has had to deal, literally with hundreds and hundreds of people who have come across the border simply for the purposes of obtaining higher benefits.

Let me say, this has an economic impact that brings about a savings to the budget over the next 5 years of some $150 million, according to preliminary scoring by CBO. We are talking about a savings to the taxpayers of this Nation. We are attempting to deal with a situation that will keep us from what I consider to be a totally abhorrent policy, that is shifting the welfare burden from one State to another and inducing people to leave their State because they can get higher benefits. I am not suggesting this is a panacea. It will not be a cure-all of the ills of social services and the problems attendant thereto. But it is a start.

I offer this amendment on behalf of myself, Senators KASTEN, NICKLES, and SEYMOUR.

The PRESIDING OFFICER. Is there further debate?

The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, it is a rare occasion when I find myself at odds with my colleague and friend from New York, Mr. D'AMATO. As chairman of the Subcommittee on Social Security, which has jurisdiction in this matter, needless to say, the Aid to Families with Dependent Children, AFDC, as it is better known—welfare, as it is inherently known—we have a long experience with this subject, and I think a very clear one with with respect to the constitutional rights of Americans involved here. I will come to that in just a moment.

However, may I say that 30 years of experience with this subject have led most observers to agree that there is little, if any, movement by individuals, families, from one State to another in search of more generous welfare benefits. People move around in our country all the time. They always have. And they usually move from one place to another in expectation that they will improve their circumstances, in one sense, in one way or another. Often they do not. That is life.

It is the case, however, that the movements are very rarely, if ever, in any significant sense associated with the desire to go into a new State and become dependent on public welfare in that State. As a matter of fact, just within the last 3 weeks we have had hearings in the Finance Committee, Subcommittee on Social Security and Family Policy, hearing from a welfare commissioner from the State of Oregon about the legislation we adopted so nearly unanimously in 1988, the Family Support Act. He described families that had moved from California to Oregon, north; from the State of Washington, south, to be in Oregon where the work training programs were more visibly in place, more effective, were having better results, even though the AFDC benefit in Oregon is lower than in its neighboring California and Washington.

We have testimony before our committee that indeed people move in search of better circumstances, and that is in the context of the AFDC Program, but they move looking for work opportunities. That has been our history, internal migration, from the first time a family crossed the Appalachians looking for land on the other side; people coming from the South to the North where agriculture was declining in the one region to where industry was expanding in the other.

It is simply not the case that there is any significant—I am not even aware of any organized inquiry that has ever demonstrated a movement in search of higher welfare benefits, particularly in a time when, for the last 25 years, welfare benefits have been declining.

But in any event, this has nothing, or ought to have nothing, to do with our judgment. Our judgment here turns on the constitutionality. Repeatedly, the Supreme Court of the United States has said that State enactments to inhibit eligibility under Federal law of persons who have moved into one State from another violate the constitutional right to travel. These findings go back a long way.

In *Shapiro* v. *Thompson*, 394 U.S. 618, 1969, the U.S. Supreme Court found that a State residency requirement designed to discourage welfare families from coming into the State is unconstitutional. You cannot do that to American citizens. The Supreme Court has so held. States even, pursuing this delusion that somehow or other welfare dependency at a given level in a given State reflects the level of benefits—it does not. Some of the highest rates of welfare dependency are in States with some of the lowest levels of AFDC treatment. I just remark there are States where, with the present welfare legislation beginning to take hold, the Family Support Act—When we adopted it in 1988, I said on this floor it will not change our affairs overnight.

We will get a feeling for this matter in perhaps the year 2000. We have now been for some time in the most protracted recession of a postwar period, or nearly thereto, and we have seen welfare cases go up, just as we have seen unemployment cases go up. They are clearly in response to a shortage of job opportunities.

Very well, but let us be clear, there are twice as many AFDC cases extant today as there are persons receiving unemployment benefits. And let it be understood, if I can, we are not talking here about a marginal group of people, people you do not know, people who do not live near you. We can show, Mr. President, that almost one American child in three will be on welfare before they reach age 18. We can show that of the children born in the years 1967, 1968, and 1969, almost three-quarters of minority children were on welfare before they reached age 18. We are talking about one American child in three, and we are talking about depriving them of a constitutional right which is not a theoretical one, but rather one that has been upheld by the Supreme Court in emphatic decisions.

I stated that in Shapiro versus Thompson in 1969 the Court found a State residency requirement unconstitutional. Then, Mr. President, in 1982, 10 years ago, in *Zobel* v. *Williams*, that is 457 U.S. 55, 60 and Note 6, as if the Court had to spell it out a second time, a yet more detailed finding. I do not want to characterize Justices, but I could say in a near exasperated finding, the Court said did we not tell you this strips constitutional rights from Americans? And so it said that the constitutional right to travel "protects new residents of a State from being disadvantaged because of their recent migration or from otherwise being treated differently from longer term residents."

The Court said the right to travel is a constitutional right. It adheres in citizenship and to restrict it in any way is unconstitutional.

Accordingly, Mr. President, in order that we might avoid the question of so much of the emotions that surround this subject and have done with increasing anger and frustration, this, Mr. President, is the first Presidential election campaign in our history in which the issue of welfare dependency has been at the top of the Presidential campaign debate. President Bush raised it in the State of the Union Message. He has repeated it. Some statements have been very seriously questioned by commentators. The President returns to this issue on his weekly Saturday broadcast tomorrow, and I will respond on behalf of the Senate majority leader who asked me very generously to do that, and I will.

Mr. President, in these circumstances, and asking the Senate to understand where our first responsibility lies, which is with the Constitution that created us and which we are sworn to uphold and protect against all enemies foreign or domestic, including State legislatures which might enact such measures—and I remind Senators, we come in here on January 3, we march down this aisle, we go right over to that corner, we put our hands on a Bible if we so choose, and swear to uphold and protect the Constitution of

the United States against all enemies foreign and domestic—that being the case, Mr. President, the Supreme Court, having twice declared any such State measures to be unconstitutional, I propose to make a point of order that the amendment proposed by the Senator from New York impinges upon the right of citizens to travel freely from State to State and under the Constitution this is not in order.

I will make that point of order, a constitutional point of order, when all time has been yielded back.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, if I might, I am going to take several minutes. Several of my colleagues would like to speak to this amendment. Let me first indicate the senior Senator, my good friend from New York, Senator MOYNIHAN, is absolutely correct. There have been very few times we find ourselves certainly in opposition and this comes from our own beliefs and convictions and I respect him and I respect his scholarship and his studies and his advocacy of the rights of families which have done so much for so many over the years.

As it relates to the particular constitutional cases that have been cited by my learned colleague, they really center around the total denial of benefits that a State attempted to bring about by bringing in residency requirements. There is a very real distinction between limiting and cutting benefits for those moving from a State, and limiting them. And particularly where people who are on social services in another State move in for higher benefits, clearly, they are bringing a clear prima facie case that a person is coming simply to get higher benefits.

A State, we argue, would have a right and we do have the right to say that this is not in the national policy, this is not a goal that should be preserved. This is not a right, but rather that States have a right to say that we will give you that help that you are entitled to but at the level that you were receiving so that not one State that may have higher benefits becomes the magnet. This is unacceptable, and that is why we are here.

We are here as a Congress to determine what kind of conduct is acceptable. Social services, yes, should never be totally denied to anyone, but what about level of social service? Does the State have a right to say, look, we have established a level for those who live here, but we do not want to have a situation where people deliberately come to our State to receive higher benefits. That becomes injurious to our State, to our people, and to our taxpayers and, by the way, is self defeating and hurts the taxpayer.

To the extent the Congressional Budget Office indicated that between March 1989 and March 1990, out of 100,000 welfare recipients who, during that period of time, crossed borders, 65,000 did so in pursuit of higher benefits. We are talking about stopping what I consider to be an evil practice because we have had situations where people have said to the welfare case officer, I was told to come right up here and to get on to the welfare role and I could do that. We have cases that go back years where people would purchase bus tickets to come into New York and to other States so that they could receive higher benefits.

Now, if it is unconstitutional to treat it in this manner—and I do not believe so—I do not think the courts have ever ruled on this situation. Maybe it is about time that they revisit this situation since the case goes back 20-plus years. But, again, I think there is a distinction that can be made and should be made and I do not think it is correct.

I have some more facts to give as to how it impacts local counties and one county in New York in particular, Niagara County which is one of our border counties.

I am going to yield the floor to my good friend from California for a few minutes.

Mr. DOMENICI. Before the Senator does that, I wonder if I might ask the Senator a question.

Mr. D'AMATO. Certainly.

Mr. DOMENICI. On the Senator's time. The Senator has time on the amendment.

Mr. D'AMATO. Certainly.

Mr. DOMENICI. I have the amendment before me. I heard the distinguished Senator say that this amendment was unconstitutional. This amendment is all numbers, dollars. How can $30 million be unconstitutional? The Senator has just reduced expenditures by $30 million from what I can tell.

Mr. D'AMATO. That is correct. It is anticipated by CBO, if we were first to take this budget action, then to be followed by legislation. And so it would be the underlying legislation which would be a constitutional matter. I do not know if a constitutional point even lies here. It would seem to me that when the actual legislation were put to the test, that is where a point of order might lie but not one as it relates to the relevance of shifting numbers by way of a budget action, a budget act; that that would not be a proper place for a point of order to lie. I hope that the Chair would so rule.

Mr. DOMENICI. I might say because it is going to take a lot of time for a vote on constitutionality, that in this case even the Chair review this amendment. It is inconceivable that this amendment is unconstitutional. There is no language in it. The only language is on page 3. That could not be constitutional. Line 3 would not be unconstitutional; it will reduce the amount by $30 million. So how could that be unconstitutional?

I do not know why we would want to have a vote. I wish the Senator from New York would review the amendment. From what I understand the Senator has reduced outlays in a function of the budget that the Senator assumes will lend itself to a law change but there is no law change here.

Mr. D'AMATO. That is correct. We would still have to enact that legislation. I would move to do that. And we received these figures from CBO.

Mr. DOMENICI. And the constitutionality, if there be an attack, would certainly be some other time on legislation, it seems to me.

Mr. D'AMATO. That is correct.

Mr. DOMENICI. I hope we do not have to have a vote on that. I urge that the senior Senator from New York take a look at that.

I yield the floor. I thank the Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. I yield the Senator from California such time as he may require.

The PRESIDING OFFICER. the Senator from California [Mr. SEYMOUR.]

Mr. SEYMOUR. I thank the Chair. I thank my distinguished colleague from New York, Senator D'AMATO, and applaud him for his courage, his foresight, and his leadership in beginning to seek some change and reform in a welfare system that has gone out of control.

I cannot speak for the State of New York or many other States, but, Mr. President, I think I can speak for what is happening in my State, the largest State in the Union, the State of California. Mr. President, in 1964, 1 in every 18 children under the age of 18 in my State received AFDC, welfare. By 1989, Mr. President, the number of AFDC-dependent children had increased to 1 in 6. That is 1 in 18 to 1 in 6. California's AFDC grants, the amount that is paid, are currently the second highest in the continental United States at an average of $663 a month for a family of three.

Now, how does that compare? Mr. President, the AFDC payment corollary in the State of Texas is not $663 a month but $184, and in Florida it is $294, not $663, and in the State of Pennsylvania it is $403, not $663, a difference of $260 per month. In fact, the average AFDC payment in the Nation's 10 most populous States is $382; California $663.

Now, the senior Senator from New York indicated that he was not aware of welfare families moving from one State to another. I do not have any evidence that they are all flocking to California, but, Mr. President, I can share with you that 7 percent, 7 percent of California's present welfare recipients did not live in the State 1 year ago.

As a matter of fact, between 1978 and 1988, in that decade, welfare grants in California rose nearly twice as fast—that is 9.4 percent—as the real family income of Californians who are paying the taxes that rose at 5.1 percent.

California is a big State. In fact, California represents 12 percent of the population of our Nation, but California has 26 percent, 26 percent of all of the costs of welfare paid in this country. So you see, Mr. President, the statistics that we face in California are grim, and it is bankrupting our State. The welfare case load in our State is projected to grow by 47 percent from 1988-89 to 1992-93. That is 4 years, a 47-percent increase, almost 12 percent per year, and nearly four times as fast as the rate of our population growth.

The benefits are such on welfare in California that a family of three would have to earn $1,400 a month to make more than they would if they remained on welfare. How does that compare to the minimum wage? The minimum wage would make $737 a month if they working full time. And so what we have in California is a system that benefits people to not work.

So clearly this system cries out for reform. Let me give you the bottom line, Mr. President. There are so many people in society who pay taxes, and then there are so many people in society who need taxes in the form of a subsidy, one or the other.

In my State, a critical change is taking place. Today we have six taxpayers for every five tax takers, and by 1995, as a matter of fact, they will be equal. What is more fearful is that by the year 2000, Mr. President, we are going to have four taxpayers for every five tax takers. We simply cannot afford that burden anymore. We are driving our taxpayers out of the State. They just cannot afford to carry the load.

Mr. President, I stand in strong support of Senator D'AMATO's effort and in support of the amendment.

Mr. MOYNIHAN. Mr. President, I would like to say to my friend from California that on March 30, the director of the Oregon Department of Human Services, Mr. Kevin Concannon testified before our subcommittee on Social Security—we are tampering with Social Security here among other things—that what the jobs program in Oregon has created is such an attractive working operation now under the Family Support Act that people, indeed, move from California to Oregon even though benefits in Oregon are lower.

I am not disputing the proportion of welfare recipients who will not behave that way, but neither do I want to see it denied to those who are really trying to get out of the situation they are in.

I just had a message from the commissioner of social welfare in the State of New York, recently professor at the Kennedy School of Government, and one of the authorities in the Nation on this matter.

I quote the commissioner.

> There is no evidence that people move from one State to another for the purpose of getting welfare, and in particular no evidence that people move into the State of New York for that purpose.

What one appeals to are the facts but the facts will never be accepted. People will think what they wish to think.

So when all time is yielded back, I will appeal to the Constitution, that I ask Senators to remember their oaths. Remember that the Supreme Court has twice held on legislation which this measure anticipates, absent which it would have no effect. This legislation could only be meaningful if the Congress enacted an unconstitutional measure or if the States did.

The underlying purpose, as avowed by the ranking member of the Budget Committee, is to see the enactment of legislation which will clearly be held unconstitutional. We do not take an oath to balance the budget, and we do not take an oath to bring about universal peace, but we do take an oath to protect and defend the Constitution of the United States against all enemies, foreign or domestic, be they State legislatures or whatever.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from New York, Senator D'AMATO.

Mr. D'AMATO. Mr. President, I want to do two things: First, I am going to refer to one of our counties, Niagara County, a county of about 220,000 people, in which, in 1990, a record number of new residents, 378, moved to and joined the social service rolls.

The following year 1991, up until October 1991, a higher record number, 491 residents, projected out to 600, again came into the county and joined the welfare rolls.

I would suggest that county and other counties cannot absorb that kind of situation where people are coming in, obviously, to get higher welfare benefits.

Second, in closing, let me say that my very learned friend described well a potential problem, and I understand that. This Senator is trying to help frame a partial solution to this problem. I am not talking about creating some constitutional disincentive to travel, but what I am doing is trying to remove incentives to welfare shopping, to game the system—we should stop that—and instead help foster a system that is fair, that will work, and that taxpayers who are already unhappy about the unreasonable burdens being placed on them will be more willing to support.

So this Senator is trying to ensure, not to deny, rights.

I believe this will form, hopefully, a consensus so that we can pass legislation later that will accomplish this. I wish to point out that the Senate has previously voted on and passed this legislation. I will offer this bill again.

Indeed, if there is a constitutional question, I believe that the courts will resolve it in time, given the distinction which is not a cutoff of benefits, but rather saying that we will not encourage people to come and welfare shop. Benefits, yes. But we are not going to contribute to a system that fosters an inequity for those States who are meeting their social responsibility. That is the goal of this Senator.

I yield.

The PRESIDING OFFICER. The Senator from California, Senator SEYMOUR.

Mr. SEYMOUR. Thank you, Mr. President. I will be very brief.

I just wanted to comment to the Senator from New York relative to what he heard, I believe, from the State of Oregon in Social Security recipients leaving California for Oregon. That is a phenomena that is taking place, but I do not believe that to be welfare recipients. I believe that to be the folks who have retired. They built up equity in their home, and they sold their home for a rather substantial price. They looked to Oregon, to a little lower cost of living.

So they go up and pay cash for their home in Oregon and live happily ever after. But it is not welfare recipients. The welfare recipients are coming the other way.

I yield my time.

Mr. MOYNIHAN. Mr. President, a gentleman from the Oregon Department of Human Services was before our committee speaking for the State. He was speaking for the national association. He said that they have some good programs, such as the Family Support Act, that is getting underway. The word is going around that they can get you into shape to get a job, and people leave high-benefit States—Washington to the north, and California to the south—to come in for the job training.

I am not trying to ascribe anybody as morally superior, or particularly virtuous. They are making a wise economic decision. But the economic decision that motivates them is to get job training and education, and get out of welfare.

Is everyone on welfare of that disposition? Certainly not. But we have some testimony about people who are doing that.

So, Mr. President, has time been yielded back on the Republican side?

The PRESIDING OFFICER. The time has not been yielded back at this point.

Mr. MOYNIHAN. If time is yielded back by my colleague, I will do the same.

Mr. D'AMATO. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back by the Senator from New York.

Mr. MOYNIHAN. Mr. President, I make a point of order that the amendment proposed by the Senator from New York proposes to impinge upon the rights of citizens to travel freely from State to State. Under the Constitution, this is not in order.

The PRESIDING OFFICER. Under the precedents available to the Chair, the Chair has no authority to rule on a constitutional question and must submit such questions to the full Senate.

Is the point of order well taken?

Mr. DOMENICI. Mr. President, I know we are running out of time. I do not want to deny other Senators who have the few remaining amendments an opportunity to debate their proposals. I want to make sure that the Senators that are interested in what we are voting on——

Mr. MOYNIHAN. Mr. President, a constitutional point of order has been made. No debate.

The PRESIDING OFFICER. The motion is debatable. The Chair just checked with the Parliamentarian.

Mr. DOMENICI. I offer time off the resolution.

Mr. MOYNIHAN. I apologize.

The PRESIDING OFFICER. The floor is under the control of the Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, I ask every Senator that walks in if they are going to vote on this, if they would just go up to the desk and look at the amendment. They cannot be unconstitutional. There is nothing in it that even directs anyone, orders anyone, says they can do something.

It has dollar numbers, and page numbers, and three other words "reduce the amount." That is all that is in this.

I have nothing further to say. I hope that we do not declare it an unconstitutional amount. That would be in itself a tragedy.

The PRESIDING OFFICER. Is there further debate on the point of order raised by the Senator from New York, Senator MOYNIHAN.

Mr. MOYNIHAN. 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. STEVENS. Mr. President, will the Senator yield to me?

Mr. DOMENICI. Sure.

Mr. STEVENS. Mr. President, I would seek the advice of my friend, the senior Senator from New York, to tell me in what way this is unconstitutional. I have examined it. As the Senator from New Mexico said there are 27 lines that say reduce a certain amount by $30 million.

This legislation is a reduction of $30 million out of a whole series of line items, and that cannot be unconstitutional. I would be pleased to listen to my friend from New York, if he would respond. Why is this unconstitutional when it simply reduces a money figure?

Mr. MOYNIHAN. Mr. President, I answer in the words that the distinguished Senator from New Mexico stated earlier: These budget outlay reductions could only take place in consequence and in the aftermath of our enacting legislation, which, in the view of this Senator—and we will soon find out from the body—would be held unconstitutional by the Supreme Court, exactly as it has been twice in as recently as 1982; the court held that such legislation impinges the right of Americans to travel.

We are not talking about welfare here. We are talking about the rights of Americans. When we start diminishing the rights of Americans in any way, in my view, we fail in our oath. And the Supreme Court could not have put it more clearly on record in Shapiro versus Thompson and Zobel versus Williams, that the right to travel is an American's right; it adheres to citizenship. That, sir, is my answer. It may be held inadequate or insufficient from the body.

Mr. STEVENS. I thank the Senator for that response. I respectfully say that we are not dealing with the rights of anybody here. We are dealing with the amount of money we might spend under a particular function, and that is based upon a series of assumptions made by the people who offer the amendments. Those assumptions are not binding upon the body. They certainly could not be litigated in any court that would yield to a finding of unconstitutionality or a ruling of unconstitutionality. I hope that my friend from New York would permit us to voice vote this matter, because I think he made his point in raising his objection, but I cannot see how this can be a valid point of order.

Will my friend from New York agree to a voice vote in this matter?

Mr. MOYNIHAN. Sir, the yeas and nays have been ordered.

The PRESIDING OFFICER. Is there further debate?

The question occurs on the point of order raised by the senior Senator from New York. Is the point of order well taken?

The yeas and nays are ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Georgia [Mr. FOWLER], the Senator from Nebraska [Mr. KERREY], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

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

The yeas and nays resulted: yeas 45, nays 45, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—45

Adams	Ford	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Graham	Nunn
Biden	Harkin	Pell
Bingaman	Heflin	Pryor
Boren	Hollings	Riegle
Breaux	Inouye	Rockefeller
Burdick	Johnston	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dodd	Levin	Wellstone
Exon	Metzenbaum	Wofford

NAYS—45

Bond	Gorton	Nickles
Brown	Grassley	Packwood
Bryan	Hatch	Pressler
Bumpers	Hatfield	Reid
Burns	Helms	Robb
Byrd	Jeffords	Roth
Chafee	Kassebaum	Rudman
Coats	Kasten	Seymour
Cochran	Kohl	Simpson
Cohen	Lieberman	Smith
Craig	Lugar	Specter
D'Amato	Mack	Stevens
Dole	McCain	Symms
Domenici	McConnell	Thurmond
Durenberger	Murkowski	Warner

NOT VOTING—10

Bradley	Garn	Wallop
Danforth	Gramm	Wirth
Dixon	Kerrey	
Fowler	Lott	

The PRESIDING OFFICER. The yeas are 45, the nays are 45, the point of order is not well taken.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I support the point of order raised against the D'Amato amendment.

In the strictest sense, the amendment offered by the Senator from New York was constitutional; it merely cut $30 million from the income security function in the budget resolution. However, the funding cut had a clearly unconstitutional premise—that States could pay new residents lower welfare benefits than residents who had lived in the State at least 1 year.

In 1969, the Supreme Court ruled in Shapiro versus Thompson that a 1-year waiting period before new State residents became eligible for welfare benefits violated the personal right of interstate travel under the Constitution. The Court further ruled that Congress could not alter this fact either through the authorization process or through direct congressional enactment for the District of Columbia.

So, Mr. President, although the amendment to the budget resolution it-

self was constitutional, I voted for the point of order because the premise underlying the amendment was unconstitutional.

The PRESIDING OFFICER. The question occurs on the amendment No. 1784.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1784

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, Mr. D'AMATO. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXION], the Senator from Georgia [Mr. FOWLER], the Senator from Nebraska [Mr. KERREY], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN] the Senator from Texas [Mr. GRAMM], the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting the Senator from Wyoming [Mr.WALLOP] would have vote "yea."

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

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—43

Bentsen	Domenici	Nunn
Bond	Gorton	Pressler
Boren	Graham	Reid
Brown	Grassley	Robb
Bryan	Hatch	Roth
Bumpers	Helms	Rudman
Burns	Kassebaum	Seymour
Byrd	Kasten	Simpson
Coats	Lieberman	Smith
Cochran	Lugar	Stevens
Conrad	Mack	Symms
Craig	McCain	Thurmond
D'Amato	McConnell	Warner
DeConcini	Murkowski	
Dole	Nickles	

NAYS—47

Adams	Gore	Mitchell
Akaka	Harkin	Moynihan
Baucus	Hatfield	Packwood
Biden	Heflin	Pell
Bingaman	Hollings	Pryor
Breaux	Inouye	Riegle
Burdick	Jeffords	Rockefeller
Chafee	Johnston	Sanford
Cohen	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Daschle	Kohl	Shelby
Dodd	Lautenberg	Simon
Durenberger	Leahy	Specter
Exon	Levin	Wellstone
Ford	Metzenbaum	Wofford
Glenn	Mikulski	

NOT VOTING—10

Bradley	Garn	Wallop
Danforth	Gramm	Wirth
Dixon	Kerrey	
Fowler	Lott	

So the amendment (No. 1784) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, the next amendment to be considered will be a Grassley amendment, and I ask unanimous consent that there be 20 minutes on the amendment equally divided; that in the event a point of order is made, there be no further discussion on the motion to waive.

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

The Senator from Iowa.

AMENDMENT NO. 1785

(Purpose: To express the sense of the Senate regarding the use of defense related cuts made in both defense and domestic programs)

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume, and I send the 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 Iowa [Mr. GRASSLEY] proposes an amendment numbered 1785.

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, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE USE OF DEFENSE RELATED CUTS MADE IN BOTH DEFENSE AND DOMESTIC PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) fairness and propriety dictate that the "Fourth Arm of Defense", better known as the U.S.-flag Merchant Marine, share the burden of defense cuts in this post-cold war era;

(2) the justification for maritime programs and policies such as the Jones Act, cargo preference, and Operating Differential Subsidies has been to maintain a U.S.-flag fleet to supply vessels and manning for sealift needs during overseas military conflicts;

(3) these programs support approximately 9,000 to 10,000 seafaring billets or jobs, with cargo preference supporting approximately 2,000 billets, Operating Differential Subsidies supporting approximately 2,300 billets, and the Jones Act supporting the remaining 5,000 billets.

(4) the U.S. International Trade Commission study concluded that the Jones Act costs American consumers and businesses more than $10 billion per year, and destroys 2,000 jobs in mining, forestry, agriculture and other industries. This translates into a cost of $2 million per seafaring billet.

(5) the Office of Management and Budget reports that it estimates the cost of cargo preference for fiscal year 1993 to run over $500 million. This translates into a cost to the taxpayer of $250,000 per seafaring billet.

(6) the Office of Management and Budget reports that it estimates Operating Differential Subsidies for fiscal year 1993 to cost $225 million. This translates into a cost to the taxpayer of about $100,000 per seafaring billet to subsidize the difference of wages and benefits between U.S.-flag seafarers and their world competitors.

(7) the Department of Defense reports the average cost of salary and benefits for the military's 1.9 million enlisted and officers from E-1 to O-6 captain rank averages $32,125 per year, with captains of navy vessels costing $101,069. The cost of reservists would average one-sixth of these costs.

(8) the Maritime Administration reports the cost of salary and benefits for a captain of a commercial merchant marine class A-3 vessel costs $312,000 per year.

(9) the cost of one commercial merchant marine captain could pay for the cost of three active duty or eighteen reservist captains who face unemployment because of defense reductions in force.

(10) the effort to eliminate unwise defense spending must reach all areas, including the "Fourth Arm of Defense" meaning the U.S. commercial merchant marine.

(11) savings from merchant marine programs can and should be used to invest in programs critical to the welfare and education of our children, as well as to improve our military sealift needs.

(12) these savings can be achieved and directed this fiscal year to children programs without eliminating the budget firewalls.

(b) SENSE OF THE SENATE.—It is the sense of the Senate, that cargo preference and operating differential subsidies for our merchant marine be eliminated by Congress and that the $416 million domestic savings per year be distributed among children welfare and education programs including: Chapter I, Head Start, Special Education, Impact Aid, Immunizations, Maternal and Child Health, Child Care Block Grant, Child Abuse Prevention, and WIC. Furthermore, the $310 million defense savings from eliminating cargo preference should be dedicated toward establishing a merchant marine reserve paid at the same rate as regular military reservists, and that any remaining defense savings be used to minimize the number of active duty and reserve military personnel from being released into the unemployment lines. If additional savings are available, they should be devoted to deficit reduction.

Mr. GRASSLEY. Mr. President, this is a cargo preference amendment, so everybody knows what we are dealing with. We are talking about using the money for other domestic programs.

Last night, we voted on a proposal that if the budget firewalls are ever eliminated, we could cut defense by several billions of dollars and spend it on very important programs such as those involving the welfare and education of children.

I share my colleagues' concern about the need to cut defense in the post-cold-war era and direct it to deficit reduction, as we voted to do yesterday

with an amendment offered by Senator EXON, as well as to devote some of the peace dividend to programs for welfare and the education of our children.

But we are losing a real opportunity if we think we have to worry about the firewalls being down to accomplish that. The amendment yesterday dealt with that point. We do not need to break down the firewalls to go after defense waste and still have a peace dividend worthy of use somewhere else. We can increase children's education programs, child welfare programs, by simply requiring the fourth arm of the defense—and that happens to be the U.S. merchant marines—to also share in defense cuts.

OMB has found $411 million used for cargo preference and for operating differential subsidies under the domestic category which can be diverted immediately to children's programs without eliminating firewalls.

This leaves $310 million in cargo preference under the defense category to improve in a very cost-effective way, our sealift mission and, just as important, to save some of the jobs of our active-duty and reserve men and women who face the unemployment line.

This could save jobs for reservists and national guards from Iowa or any other State, and of course, in my State, we have 20,000 men and women proudly serving on active duty.

So I say, as this amendment does, let us not wring our hands about firewalls. Let us go after the goldplated defense programs—and cargo preference and operating differential subsidies fall into this category—and use this money not for inordinate subsidies in that area but to put it into our children's future.

I want my colleagues to realize, as I have said so many times on the floor over the last 2 years, because we debate this issue once or twice a year, I am prepared to show anybody just the inordinate subsidy there is to these maritime jobs that can be better spent somewhere else, or if still spent there, to share in some of the costs when we are talking about forcing men and women out of military uniform.

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

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself such time as I may consume on this amendment.

Mr. President, here we go again. This is probably about the 12th time this body has considered this approach to do away with something that the majority of the Senate and a majority of the House and the administration solidly supports, and they do that because it is a good provision to try to help promote an American industry that is in desperate need of assistance.

I am always enthralled by the fact that the Senator from Iowa points out, well, we could save a couple hundred million dollars if we did away with the cargo preference program. In 1989, we could have saved about $7 billion to $8 billion if we did away with all the farm programs. Is anybody suggesting that? I doubt it. It helps United States agriculture. It helps farmers. It helps this country. We could send a lot more to starving nations if we bought all foreign wheat, or if we bought all foreign corn. It is a lot cheaper than American corn because of our programs. Is that good policy? Of course not. This Government has an obligation to support industries in this country that need help and assistance. The way to do that is to design programs which actually allow these industries to compete against other competitors in the international community.

Mr. President, that is exactly what the cargo preference bill says. It simply says that when we carry our military, we would like to carry it on American ships. I do not want to see our military equipment going to the Persian Gulf on Libyan vessels or Liberian ships. It ought to go in American vessels.

Is it more expensive? Of course it is. Is it good policy? Of course it is. I do not want our agricultural products going to other countries on foreign flagships. Countries will soon think it is some other country giving the donation to food assistance programs. That is not in the interest of this country.

Another point I think needs to be made, Mr. President, is the fact that some people think this will save us a ton. The actual fact is that only about 3 percent of all the food we ship overseas goes under the cargo preference programs. The reason is because under cargo preference it is only the aid programs that are affected by the requirement. The vast bulk, 97 percent of all the food we send overseas, as the Presiding Officer knows very well, goes under regular, normal, commercial transactions. It does not go under assistance programs like the Public Law 480 program.

It goes on a normal commerce transaction, and they send those on the cheapest ships they can possibly find. They put it out for bid. Whoever gets the cheapest bid gets to carry the product. Only 3 percent of food that is sold from the United States goes under proportional programs.

The other point I make is I was looking over some of the items that the author of the amendment has in his little fact sheet. You know, if you read facts, you can read them a number of different ways. He says the Maritime Administration says that the cost of a captain on a ship is $312,000 a year. That is interesting, but it is not the total picture. As they say, the other side of the picture is these captains only work about half a year, 6 months. So immediately you divide the cost of a year's salary in half because they do not work for a year. I would not want to be at sea for an entire year. I would like to get back every now and again. They do not work the whole year. The figure is misleading at the very best.

Mr. SARBANES. The captains at sea and working, how many hours a day do they work?

Mr. BREAUX. It is almost as much as the Members of the U.S. Senate have been working. It is 24 hours a day. They are responsible for that ship.

Mr. SARBANES. He is in charge of that ship.

Mr. BREAUX. He is responsible 24 hours a day under very trying conditions. They work only 6 months. So you can start by dividing the salary in half. And if you talk about the number of hours he works in a 6-month period, we are talking about some very serious and difficult conditions.

Mr. SARBANES. For a very highly responsible position. Is he not responsible for that ship?

Mr. BREAUX. He is responsible for the cargo, the ship, the contents, and the crew that is serving with him.

The Senator makes an excellent point. We have debated this. We talked about it. We voted on it on a number of times. I say to my colleagues, in addition to all of the merits as to why the amendment should not be adopted, it is also nongermane.

At an appropriate time I will make a point of order that the amendment is nongermane, and should be struck down on a point of germaneness under section 305(b) of the Budget Act.

I reserve the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I might consume.

Mr. President, I think the point that the Senator from Louisiana ended on is making my point because it is a matter of fairness and propriety that fourth arm of defense—this is better known as the U.S.-flag merchant marine—shares the burden of defense cuts in this post-cold war era.

Whether the Senator from Louisiana speaks about the $300,000 salary and benefits for a year or divides it by two and comes out of $150,000 a year, whether the guy is working 24 hours a day or whether he works just an 8-hour day, if you compare that to what we pay our Navy captains in the U.S. Navy, they would get $101,069 in salary and benefits. So what we are talking about here is an organization and subsidies that exist for defense purposes that are not serving the purpose that they were intended to do. Yet we forget all about those when we are talking about cutting military expenditures.

The thousands and thousands of people who are our constituents from every State in the Nation are going to get hit in a very difficult way as we re-

duce our military—and we should reduce our military now that the threat of a superpower war is over.

But the first point is, as a matter of fairness, this amendment should be adopted. The justification for maritime programs and policies such as the Jones Act, cargo preference, the operation differential subsidies, has been to maintain a U.S.-flag fleet to supply vessels and manning for sealift needs during overseas military conflicts.

These programs support approximately 9,000 to 10,000 seafaring billets, or jobs. The cargo preference is supporting approximately 2,000 billets. Operating differential subsidies are supporting approximately 2,300 billets, and the Jones Act is supporting roughly the remaining 5,000 billets.

The U.S. International Trade Commission—this is our own Government agency—had a study concluding that the Jones Act cost American consumers and businesses more than $10 billion per year and destroys 2,000 jobs in mining, forestry, agriculture, and other industries. This subsidy, the cost to the consumer, translates into the cost of $2 million per seafaring billet as a subsidy.

The Office of Management and Budget estimates the cost of cargo preference for fiscal year 1993 to run over $500 million. So this translates into a cost to the taxpayer of $250,000 per billet. The Office of Management and Budget reports that it estimates operating differential subsidies for fiscal year 1993 to cost $225 million. This translates into the cost to the taxpayer of about $100,000 per seafaring billet to subsidize the difference of wages and benefits between U.S.-flag seafarers and their world competitors.

The Department of Defense reports the average cost of salary and benefits for the military's 1.9 million enlisted and officers, from E-1 to O-6 captain rank, averages $32,125 per year, with captains of the Navy vessels, as I have already said getting $101,069. The cost of reservists would average about one-sixth of this cost.

The Maritime Administration reports the cost of salaries and benefits for a captain of a commercial merchant marine class A-3 vessel costs at $312,000 per year. The cost of one commercial merchant marine captain could pay for the cost of three active duty or 18 reservist captains who face unemployment because of defense reduction in force.

The effect to eliminate unwise defense spending must reach all areas, including the fourth arm of defense, our U.S. commercial merchant marine. Savings from merchant marine programs can and should be used to invest in programs critical to the welfare and education of children as well as to improve our military sealift needs, and this amendment allows both of that to happen. These savings can be achieved and directed this fiscal year to children's programs without eliminating the budget firewalls.

I reserve the remainder of my time.

Mr. COCHRAN. Mr. President, will the distinguished Senator from Louisiana yield a couple of minutes to me?

Mr. BREAUX. I am happy to yield whatever time he needs to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for yielding time.

I first want to say there is no Senator in this body I respect more than the distinguished Senator from Iowa [Mr. GRASSLEY] and it troubles me that I am compelled to rise to oppose the amendment he offered because I do not know of anyone who brings to a debate any more thorough work and preparation and knowledge of a subject than he does. The depth on this issue is no different from that which we usually find him prepared to deliver.

I respect the fact that we disagree on this subject, not because of any personal differences, but simply because of the belief that from different points of view people can differ. I, frankly, have a strong view that our merchant marine, Mr. President, is one of our most valuable national assets. No clearer was that brought home to those of us who observed the Persian Gulf war than the performance that was turned in as the sealift capacity was brought to bear and used to help protect our national security interests in that conflict.

I point out that, while I think we could debate this for a long time, today is probably not the time to go into all of the details. But I would like to ask unanimous consent to put in the RECORD some facts and figures that would support the notion that this is a national asset, and it certainly pulled its weight in the Persian Gulf conflict. So I make that unanimous-consent request at this time.

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

SEALIFT IN OPERATION DESERT SHIELD/DESERT STORM

In Operation Desert Shield/Desert Storm, our country confronted one of the largest and most heavily armored ground forces in the world, in an area about as far away from the United States as one could get on land and still find vital interests at stake, in a region where we had no forward-deployed ground forces and limited prepositioned equipment, under circumstances that called for rapid force buildup.

Durng the early stages, there was a "window of vulnerability" when we were concerned about the ability of U.S. and allied forces to defend against a possible Iraqi attack. Fast action was necessary, and a massive airlift began August 8.

Never before had any nation airlifted as many tons over as many miles in as short a time. On some days, more than 120 strategic airlifters landed in the Persian Gulf region.

That initial airlift was unparalleled, but the first two sealift ships to arrive in Saudi Arabia carried more tonnage than the entire airlift up to that point. It was sealift that moved the vast majority of the supplies and equipment.

On one day, December 31, there was literally a steel bridge across the ocean, with 132 ships enroute to Saudi Arabia and 47 returning to the United States: one ship every 50 miles from Savannah to the Persian Gulf.

More cargo was sealifted more quickly than ever before, equivalent to a couple of medium-sized cities, 95 percent of all supplies sent to the Persian Gulf: over 10 million tons of dry cargo (tanks, trucks, ammunition, foodstuffs); 2.8 million tons of unit equipment; 6.5 million tons of refined petroleum products; and 825,000 tons of sustainment cargo.

Had this operation been attempted years ago, the United States would have had much less military sealift at its disposal.

A total of almost $7 billion was spent on sealift during the 1980s, more money than was spent on military sealift from the end of World War II until 1980. This expenditure dramatically increased the Nation's sealift capability.

Despite inevitable problems, by any standard America's defense transportation system achieved a great success in Operation Desert Shield/Desert Storm. It was a team success in the truest sense. Our uniformed forces, active duty, guard, and reserve; our commercial air carriers; our rail and trucking industries; our ports; and the merchant marine—the bedrock of America's defense transportation system—all worked together to support our national interests.

Mr. COCHRAN. Mr. President, I hope that Senators will go along with the point that will be made by the distinguished Senator from Louisiana, support the notion that this is not a germane amendment, and it should not be approved by the Senate at this time.

Mr. BREAUX. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. I want to make two quick observations. First of all, there are a number of other countries that use the cargo preference requirement in order to sustain a merchant marine. So they recognize the validity of this approach in order to sustain their merchant marine. The French and a number of other countries did it. The Soviets did it. I do not know how they will handle it now that they are breaking up. The French continue to do it, and a number of other countries do this as a way of sustaining a merchant marine capacity.

You have to ask the basic question, is the United States as the world's leading power to be bereft of a ship building, ship-maintaining, and a ship-operating capacity? That is really the sort of question we get. Are we going to be totally independent on others for carriage by sea?

I can think of a lot of economic reasons why that should not happen, but on the security side, it is clear that there is the argument that if we need a sealift capacity, we can call on these so-called contract ships under other flags to do it; but that did not happen at the time of the Persian Gulf situation. They refused to take the assign-

ment. So we had to come back on our own people. I am informed that 52 out of 55 seafaring nations have some form of cargo preference.

So the real question is going to come down to whether the United States is going to continue to be in any respect—it certainly has considerably diminished—a seafaring Nation. I think we should be. Furthermore, I certainly think that question ought not to be decided on the basis of an amendment offered to a budget resolution at this point in the process, when the basic issue has not been fundamentally considered. I thank the Senator.

Mr. BREAUX. I thank the Chair. I will make a closing comment. I think we already have less than 300 U.S.-flag vessels in the United States. That is it. The promotional programs that we have are two. That is it. Every other nation around the world knows the importance of having a merchant fleet that they can depend on.

The Senator from Maryland made a very key point. If we did not have our own flagships, there are some countries that would not allow their ships to be utilized to take troops, equipment, and manpower to the Persian Gulf. These are the last two programs we have left. I suggest that it only affects about 3 percent of the cargo agricultural products that we ship overseas; 97 percent of the products are never touched. Every agriculture commodity in America practically has a promotional program that aids and assists them. I support that. It is the American way, and we need to continue that.

So, Mr. President, at the appropriate time, when the author of the amendment yields his time, I will be happy to yield mine and make my point at that time.

The PRESIDING OFFICER. The time under the control of the Senator from Louisiana has expired.

The Senator from Iowa has 1 minute 6 seconds.

Mr. GRASSLEY. Mr. President, I will make just a few quick points here. The Senator from Louisiana is probably doing what I would do if I lived in his State. I would be defending an industry that is very important there. He has to defend that industry on some basis other than it has been good for our national security, because the 300-ship figure he quoted tells the whole story.

In 1950, we had 2,000 ships. In the meantime, in all those years in between, we have had cargo preference. That says better than anything I can say. Those statistics reflect that cargo preference is not working to help our national defense.

Those 300 ships shipped just 15 percent of all of the cargo that we had to ship to the Persian Gulf war. So we are not relying upon cargo preference to give us a strong merchant marine fleet to meet the needs of our military, because they cannot do it.

Mr. President, I would like to share with my colleagues an article entitled, "America's Welfare Queen Fleet, the Need for Maritime Policy Reform." This article was written by Rob Quartel, a former commissioner at the Federal Maritime Commission and was included in the recent publication of Regulation, The CATO Review of Business and Government.

The title speaks volumes. Our Nation's maritime policies and programs, notwithstanding their good intentions, have transformed our once mighty, proud U.S.-flag commercial merchant marine into a pitiful, helpless ward of the state, not just dependent upon welfare from American taxpayers and consumers, but actually addicted to its drugs—the next taxpayer fix, or protectionist shipment of goods.

Our U.S.-flag merchant marine can no longer fend for itself in the real world. It cannot compete. Even if all the unfair foreign subsidies and policies were eliminated, the U.S.-flag merchant marine could not compete. This is why America's maritime unions and shipowners, and their allies in Congress, worked so hard to lobby the Bush administration to keep any discussion of maritime policies off the GATT table.

Unfortunately, our administration agreed to this nonsense. And when the Nordic countries wanted to put shipping restrictions on the GATT table, an administration which advocates free trade embarrasses itself by leading the opposition to the Nordic proposal.

Why can the U.S.-flag fleet not compete? There are many reasons, which Commissioner Quartel points out. But a very large part of the reason is that U.S. union crews cost way too much.

The former commander of the Military Sealift Command, Vice Admiral Carroll, hit the nail on the head nearly 10 years ago when he testified, and I quote, "Why are we in such a mess? One of the reasons is that U.S. crew costs continue to be the highest in the world. Monthly crew costs of U.S.-flag ships are as much as three times higher than those of countries with comparable standards of living, such as Norway."

Commissioner Quartel delineates other programs and policies which have contributed to the decline of America's merchant marine. This includes policies such as the Jones Act and cargo preference which in essence serve as entitlement programs allowing U.S.-flags to charge Uncle Sam and American business and consumers basically what they wish. Shipyard policies, antitrust exemptions, direct subsidies, manpower requirements, and conflicting national defense requirements all contribute to the demise of our merchant marine. Commissioner Quartel also outlines reforms that must be implemented if we hope to revive the U.S.-flag fleet.

Mr. President, I hope my colleagues will take a moment to read Commissioner Quartel's article in its entirety which I will soon ask unanimous consent to be printed in the RECORD.

But I would like to also share a few quotes from the Commissioner as follows:

> Only the S&L debacle represents a bigger government-industry-special interest scam than that which today passes for a national merchant marine policy.
>
> By the end of the Gulf War, America's subsidized merchant fleet had directly contributed only 6 aging ships to the armada of more than 460 that transported military materials into Saudi ports. Some eighty U.S. merchant marine ships carried hundreds of thousands of tons of military goods to the vicinity of the ward zone—Singapore, and the United Arab Emirates, and Haifa. But many relied on foreign-flag feeders with their foreign crews to complete the runs to Saudi Arabia and thus exposed the bankruptcy of the main-American argument that underpins much of U.S. maritime policy.
>
> In short, the success of the military sealift—a brilliant feat of logistics—occurred despite (rather than because of) 75 years of government subsidies, protectionism, regulation, and entry and management controls promoted as necessary for maintaining this so-called "fourth arm" of the nation's defense.

Commissioner Quartel continues by stating that:

> U.S. maritime policies should be based on more than emotion and the narrow parochial interest of dying labor unions, debilitated companies, and congressional PAC contributions. The needs of ocean transportation users (not just the needs of the carriers), real national security requirements (not empty rhetoric), and a realistic appraisal of the tough federal budget limits that will exist into the foreseeable future should drive decisionmaking.

Mr. President, those are tough words, but we have a tough problem. Sticking our head in the sand, allowing business as usual, seeking more drugs for the addiction, such as the recent efforts to siphon off the life-blood of other programs such as food assistance to the former Soviet Union or expanding cargo preference into the commercial trade arena through the foreign aid authorization bill, will do nothing to save our merchant marine.

I would also like to share with my colleagues an article printed in the Wall Street Journal written by James Bovard. He, too, pulls no punches, and I would like to read some of his quotes as well.

Mr. Bovard states that:

> Since Congress has given U.S.-flag ships a captive market, congressmen feel entitled to force American shippers to hire American workers, and strong unions guarantee exorbitant salaries. U.S. ship crews cost six times more than third World crews; American shipmasters routinely cost shipping companies $300,000 a year. The high pay breeds corruption: An FBI sting operation recently discovered that shipping jobs are illegally being sold by one maritime union.

Mr. Bovard continues:

> The Jones Act engenders a chain reaction of extortion—allowing American shipyards

to charge stratospheric prices to American shipbuyers, allowing American-flag ships to charge shakedown shipping rates to American businesses, and allowing American congressmen to demand lavish campaign contributions from the American maritime industry (more than $1 million a year).

Mr. President, our Nation's maritime policies and programs have been justified on the basis of two objectives—to enhance America's foreign commerce and to maintain fleets of vessels and crews necessary for military sealift needs.

These policies and programs have failed miserably in meeting either of these objectives and therefore should be abolished and replaced. Everyone knows this is true. The facts don't lie. Simply look at the fruits of our maritime policies during the last 40 years.

At the end of World War II, America had the largest fleet—over 2,000 vessels. By 1950, our U.S.-flag fleet consisted of 1,050 vessels. Today there are only about 360 vessels, and fewer than 100 remain in the oceangoing fleet.

In 1950, we had 56,629 seafearing jobs sailing under U.S.-flags. Today, we have fewer than 10,000.

In 1950, U.S.-flag vessels carried 43 percent of America's foreign trade. Today, U.S.-flags carry less than 4 percent of our foreign commerce.

Has America's foreign commerce depended upon the policies and programs supporting our U.S.-flag merchant marine? Obviously not. And in fact, our foreign commerce has thrived in spite of our wasteful merchant marine policies. From 1950 to 1985, our foreign trade skyrocketed from 117 million metric tons to 641 million metric tons.

So it is clear our merchant marine policies can no longer be defended and justified based upon our foreign trade interests. And, in fact, maritime policies such as the Jones Act which artificially increases the cost of water-borne transportation, actually makes our foreign trade less competitive.

So this leaves our U.S.-flag merchant marine programs and policies dangling precariously on the national defense justification, a justification which was exposed as a complete failure, a complete myth, by our recent Persian Gulf war.

That is one reason I think we saw last fall, Warren Leback, the U.S. Maritime Administrator arguing that we must now shift back to the economic argument. It was reported in the Journal of Commerce on November 14, 1991, that Mr. Leback said that "Maritime support advocates must take their military argument and 'turn it toward the economic defense of our country.'" Mr. Leback goes on to complain about free traders who would repeal the Jones Act and other maritime subsidies pointing out that there is no level playing field when it comes to global shipping because other nations support their maritime industries.

But what Mr. Leback did not mention is the fact that it is the United States, at the strong, vocal insistence of U.S. maritime unions and companies, refuses to attack these so-called unfair foreign subsidies and policies at the GATT table.

You cannot have it both ways, although granted, the U.S. maritime industry has enjoyed having it both ways in the past. I think the party is about over, however.

Mr. President, what are we getting for our money? One of the most overused defense arguments is that we must maintain a commercial seafaring force able to man our vessels during time of war. I say that's nonsense. I say we either devote a certain number of Navy personnel, or create a reserve, to handle cargo sealift needs. It could be done at a fraction of the cost.

I discussed earlier what it costs us to maintain those 10,000 seafaring jobs now working under the U.S. flag based upon new OMB estimates.

But, the Congressional Budget Office had also determined for Senator DOMENICI and I that cargo preference cost American taxpayers $825 million in fiscal year 1991, and operating differential subsidies cost $225 million.

Based on those estimates cargo preference, therefore, forces American taxpayers to spend over $400,000 per job for our high priced commercial seafarers.

Operating differential subsidies force American taxpayers to spend about $120,000 per job, according to Commissioner Quartel.

So what do those 5,000 jobs supported by the Jones Act cost Americans. The United States International Trade Commission released a study which showed that the Jones Act is costing American consumers and businesses over $10 billion per year. Commissioner Quartel estimates that this figure could be as high as $20 billion.

Using the ITC's figures, that translates into $2 million per billet per year! Using Commissioner Quartel's estimates, it costs $4 million per job!

But for U.S.-flag maritime supporters, price is no object. Americans, however, concerned about deficit spending are concerned.

And Americans concerned about revitalizing the economy certainly care about a $10 or $20 billion drag on the economy that destroys 2,000 jobs in agriculture, forestry, mining, and other industries.

Mr. President, one last note about the military need to spend up to $4 million per year to maintain one seafaring job for that day in the future when we need to man cargo vessels for a military sealift operation.

Here is some food for thought. Military Sealift Command officials told my office that at the outbreak of the Persian Gulf war effort, the union contracts for our seafarers contained no provision for war zone bonuses. So these high-priced union seafarers which have been living high off the hog thanks to Uncle Sam all these years, rush to add war zone bonuses to their contracts requiring that they get double pay while in the war zone.

Therefore, as an example, if captain of a commercial U.S.-flag vessel makes $14,000 per month, and served a month in the war zone, he would have received a war zone bonus of $14,000.

If a U.S.-flag commercial captain got $14,000 in a war bonus, what did a Navy captain get? $150.

I have said it earlier this year, I do not question the patriotism of our U.S.-flag merchant marine.

I just do not know, however, if we can afford this kind of patriotism.

It is time to stop this nonsense and use these funds for the sake of our children.

Mr. President, I ask unanimous consent that the article I mentioned by Rob Quartel be printed in the RECORD, along with some other material.

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

[From Cato Review of Business & Government, Summer 1991]

AMERICA'S WELFARE QUEEN FLEET: THE NEED FOR MARITIME POLICY REFORM

(By Rob Quartel)

When Saddam Hussein invaded Kuwait, the United States responded just days later with a military sealift, the success of which is unparalleled. In just 45 days the United States moved to Saudi Arabia the equivalent of a city the size of Alexandria, Virginia—lock, stock, and barrel. Hussein's threat was met by a vast armada of American commercial ships crewed by thousands of young, well-trained Americans, on the world's fastest, most modern ships. The American merchant marine threaded its way through the dangers of the naval mines laid off Saudi shores. The military was able to call on the services of this private fleet at only a moment's notice and paid no more than market rates. This success story was made possible by a far-sighted competitive merchant marine policy set in place years ago by the U.S. Congress. And with the exception of the first two sentences, this scenario is a myth. Only the S&L debacle represents a bigger government-industry-special interest scam than that which today passes for a national merchant marine policy.

By the end of the Gulf War, America's subsidized merchant fleet had directly contributed only six aging ships to the armada of more than 460 that transported military materials into Saudi ports. Some eighty U.S. merchant marine ships carried hundreds of thousands of tons of military goods to the vicinity of the war zone—Singapore, the United Arab Emirates, and Haifa. But many relied on foreign-flag feeders with their foreign crews to complete the runs to Saudi Arabia and thus exposed the bankruptcy of the man-American argument that underpins much of U.S. maritime policy. No Jones Act vessels participated at all, and the Jones Act, that most sacred of sacred cows, had to be partially suspended to ensure adequate fuel for the nation's defense. In short, the success of the military sealift—a brilliant feat of logistics—occurred despite (rather than because of) 75 years of government subsidies, protectionism, regulation, and entry and management controls promoted as necessary for

maintaining this so-called "fourth arm" of the nation's defense.

The problems inherent in existing maritime policy are not limited to issues of utility in the recent war effort, however. The various regulatory policies and subsidies that have grown up over more than 200 years, often by historical accident, are simply counterproductive. Once the largest private commercial fleet in history, the U.S. merchant marine is now a shadow of its former self, dependent on federal welfare for its marginal survival.

Unrecognized by government policy, a fundamental change is taking place in the underlying economics of ocean shipping. It is not just, as many in the industry argue, that profit levels are excessively low and markets overtonnaged; the changes taking place are far more basic. Although carriers have spent considerable time, money, and management effort to differentiate their markets and services, ocean carriage itself has become an increasingly fungible product. Each day the line between high-and low-value ocean carriage services becomes less distinguishable in the principal U.S. trades and product markets. When that line finally disappears, several difficult questions will face both nations and corporations that now own and finance relatively high-cost ocean carriers: Why own ships? Why maintain a flag fleet? Why not simply purchase ocean space, as the intermodal shipper now hires services from the trucking, airline, and railroad industries?

Federal maritime policy is divided into two distinct yet intertwined parts. Promotional (read "protectionist") policies are managed by the Department of Transportation's Maritime Administration (MarAd), and regulatory policy is promulgated by the independent five-member Federal Maritime Commission (FMC).

This article examines the network of promotional and regulatory policies and suggests dramatic departures from the themes that have motivated more than two centuries of government intervention in the maritime industry. But to understand the need for change, it is important to appreciate the state of the industry today.

THE AMERICAN MERCHANT FLEET: WHERE WE ARE

The most effective measure of a policy's success can often be found in the numbers its supporters would hide. In the case of the American merchant marine, the decline of the U.S. flag fleet offers unmistakable and conclusive evidence of the extent of the policy failure.

At the end of World War II, America had the largest fleet in world history—more than 2,000 vessels. By 1970, however, there were only 893 U.S. flag ships, and by the end of 1990, the fleet had declined to 371 active vessels. Fewer than 100 ships remain in the oceangoing fleet, and although some observers note that the tonnage of these vessels has remained constant since 1970, the market share of the U.S. merchant marine continues to drop. In 1970 U.S. flag vessels carried 24 percent of all goods arriving at or leaving U.S. shores. Today less than 4 percent of those goods are carried in U.S. flag ships.

The labor picture is equally grim. Between 1979 and 1989 average monthly maritime employment fell more than 30 percent. Seafaring jobs alone declined 80 percent, down from a high of 56,000 billets in 1950 to about 11,000 today—reflecting in part better technology, but more significantly the basic decline in the American fleet's economic viability. Although subsidized merchant marine academies continue to chum out graduates, few entry jobs exist in the oceangoing flag fleet. The average unlicensed sailor is now 50 years old, the average officer 44. Meanwhile, through the operating differential subsidy, American taxpayers subsidize some 2,200 seagoing slots to the tune of nearly $120,000 per year each.

THE POLICIES BEHIND THE GREEN DOOR

How did an industry supposedly so vital to our nation's trading success arrive at such a state? To a large extent, the U.S. flag fleet is a victim of attempts to save it. The ins and outs of maritime economics and regulation often appear complex and forbidding to the uninitiated, but its essential—the programs that govern the maritime industry and its markets—can be summarized in seven programmatic themes repeated throughout all of the legal and regulatory elements.

Cabotage policies are designed to protect domestic shipping from foreign competition. The Jones Act (the Merchant Marine Act of 1920) requires shipments between U.S. ports (Los Angeles and Honolulu, for example) to be carried on U.S.-owned operated, build, and manned carriers. The United States, almost alone among the major trading nations of the world, applies cabotage protection not only to its sailors, but also to its shipbuilders. International U.S. flag ship also face restrictions regarding the required mix of American ownership, labor, and repair work.

Shipyard policies protect domestic yards from foreign competition by proscribing the use of foreign-built or repaired vessels in domestic operation and in certain U.S. flag international trade operations. Although direct construction differential subsidies (designed to offset higher U.S. costs) are no longer funded, U.S. shipyards continue to be subsidized through federal mortgage and tax set-aside programs as well as through direct barriers to entry to foreign competitors.

Virtually blanket antitrust exemption for international ocean cartels or "conferences" is combined with federal (FMC) government enforcement of the resulting price-fixing agreements through mandatory tariff filing and antirebating policies—all falsely in the name of common carriage, price stability, and international practice and comity.

Direct government subsidies are provided to certain U.S. flag carriers. The so-called operating differential subsidies of over $200 million a year, paid to four U.S. firms operating American-built vessels, are considered necessary to offset the cost differentials created by flag restrictions on labor, ownership, capital investment, and management. But the subsidy comes with a price—regulatory constraints regarding terms of trade, routes, and asset sales. The government also restricts competition among U.S. ships in domestic Jones Act markets and through access to price-subsidized government preference cargoes.

Indirect subsidies include: U.S. flag cargo preferences for military, agricultural, and other U.S. government goods; entry barriers and utility rate regulation in protected Jones Act markets; and tax subsidies for funds set aside for ship construction.

Manpower requirements include shipboard labor pool restrictions and rigid crewing requirements, both in numbers of billets and in types of positions (radio operators, for example, akin to coal tenders on railroads) and archaic labor-management restrictions in U.S. shipyards. The demands of an aging fleet, caused largely by build-U.S. restrictions, cause further labor inefficiencies.

A national defense requirement overlays all the other programs and requirements. The law requires that the commercial fleet be in a position to be a useful auxiliary to military operations, whether military commanders want them or not.

U.S. maritime policy has been over 200 years in the making. The first legislation to protect U.S. shipping interests was passed in 1789 by the first Congress. A tariff placed on imported goods was reduced by 10 percent if the imports were carried on vessels built in the United States and wholly owned by Americans. Other policies and regulations have been added to the mix since 1789, but despite efforts to address problems through periodic adjustments to the subsidies and restrictions, the state of the maritime industry continues to deteriorate.

NEW MARKETS, NEW PLAYERS, AND A NEW WORLD ORDER

Conditions today are very different from those that existed when America's maritime laws were first written. In 1789 America was a developing country with a tiny fraction of the world's trade. Today the United States represents nearly 26 percent of world GNP, almost 12 percent of world exports. Nearly a trillion dollars (or approximately 95 percent) of U.S. foreign trade moves by ship. The world's economy simply cannot exist without either the products we sell or the markets we provide.

Dramatic changes in international markets also continue to alter the mix. The advent of European market integration, new political systems in Eastern Europe, new markets and aggressive new producers in the Pacific Rim, the potential for a new GATT and various free-trade agreements, and numerous other events—both noteworthy and minor—all contribute to major changes in the fundamental economics and consequent market relationships in the maritime sector. Innovation, entrepreneurship, and competition in transportation logistics only increase the uncertainty surrounding market outcomes. But maritime law and policy have been slow to recognize, let alone adapt to, these rapidly changing realities, including our evolving position in world markets.

The second fundamental economic change is in the character and structure of ocean carriage itself. The ocean shipping business no longer consists simply of ships on the ocean. Today's industry leaders provide intermodal docks that accommodate trucks and rail, as well as ships, door-to-door pickup, packaging, and delivery, and electronic tracking, customs documentation, and billing.

Furthermore, the ocean leg, which accounts for 70 to 80 percent of the intermodal bill is itself an increasingly fungible market of ocean space and movements. Today the competitive advantage goes to modern foreign (frequently Asian) fleets manned by smaller, less highly paid crews, who ride on cheaper foreign-built, foreign-financed ships than their American counterparts. The competitive disadvantage of the high-cost American flag fleet leaves no future for an industry penalized by both flag and Jones Act restrictions. Policymakers cannot continue to treat the merchant marine as simply an ocean service. It is increasingly an international, intermodal service industry.

A NEW MARITIME PARADIGM

It is well past time for a fundamental rethinking of the maritime world order and what many suppose to be its universal laws. It is time for the development of what might be called a new maritime paradigm. Three points represent the essential pillars on which this new strategy must be built.

First, the new paradigm should represent a commitment to reforming policy, not just restructuring current programs. That requires both a commitment to dig down to the roots of the industry's productivity and competitiveness problems and the resolve to get from where we are today to where we want to be in clear, decisive steps.

Second, the new paradigm should encompass a broad policy outlook with a detached, analytical view of international shipping as a link in the trade network of an increasingly globalized economy. U.S. maritime policies should be based on more than emotion and the narrow parochial interests of dying labor unions, debilitated companies, and congressional PAC contributions. The needs of ocean transportation users (not just the needs of the carriers), real national security requirements (not empty rhetoric), and a realistic appraisal of the tough federal budget limits that will exist into the foreseeable future should drive decisionmaking.

Finally, the new paradigm will require a high degree of boldness and imagination. The greatest obstacle to maritime reform today is political timidity and lack of imagination and vision.

Although most observers within the industry and inside the government bureaucracies that promote and regulate U.S. shipping know that the current policy has failed, few seem able to visualize conditions under which the U.S. flag fleet could compete. In part, that stems from the inability to consider either rearranging or eliminating the self-inflicted penalties of current flag and Jones Act policies. But just five key policy changes would radically alter the state of this industry by allowing it to reorganize itself along more competitive lines and by freeing industry participants from both government largess and the associated government entanglement and interference.

First, we must sever the linkage among shipbuilding, commercial shipping, and military planning and develop independent strategies in a stand-alone context for each. To the extent that each policy is independently successful, all will be served.

Second, we must eliminate the industrial welfare mindset by deliberately reducing and phasing out operating subsidies as well as the restrictions applying to labor, ownership, and assets of U.S. flag and Jones Act vessels. In addition, we need to carefully restructure and eliminate indirect subsidies, from tax deferrals to cargo preference.

Third, we should directly address military manpower and sealift requirements. To the extent the U.S. commercial fleet represents a real national defense asset, budget decisions should be consolidated with all other defense-related maritime programs under Defense Department control.

Fourth, we need to jump-start a true, internationally competitive shipping industry. Eliminating the shipping cartel's antitrust exemption, tariff-filing requirements, and extensive government oversight of internal market practices would start the process.

Fifth, we must create an aggressive, internationally focused program within the multilateral trade framework to systematically eliminate foreign subsidies, restrictions, and antimarket practices.

THE LESSONS OF DESERT SHIELD AND DESERT STORM

The recent war effort should expose the national defense underpinning of current maritime policy for what it is—largely a myth. The maritime aspects of the Desert Shield/Desert Storm operation clearly demonstrated the importance of a fully integrated, intermodal system of transportation, including a comprehensive maritime leg, but they did not demonstrate the need for a merchant marine, particularly one as inefficiently maintained as the one we have today.

Military goods sent to the Persian Gulf were moved by rail, air, and truck to ocean ports, and a variety of ships were used, both U.S. flag and foreign, with American and foreign crews alike. The most highly valued cargo—the troops—were moved to the Gulf almost entirely by air, as was certain other high-value, high-force, time-sensitive weaponry.

Although there was an undeniable, urgent need for ocean transportation, Desert Shield/Desert Storm established beyond the shadow of a doubt that the military can efficiently execute its mission even without an American-built, American-crewed commercial fleet. Ninety-one percent of dry cargoes were moved on military prepositioned fast sealift vessels, U.S. and effectively U.S.-controlled ships, and foreign (largely NATO countries) charter vessels. Only six of the fifty-nine ships specifically subsidized for the purposes of national defense actually moved through the minefields with their all-American crews directly into the war zone in Saudi Arabia. Thirty-eight other subsidized vessels transported goods on their regular liner service routes but used foreign-flag feeders, with foreign crews, to move the military goods to their final Persian Gulf destinations.

Many ships were simply unavailable to the military. Shipowners and military officials were concerned that any diversion of these ships for military purposes would lead to a permanent disruption of service and the loss of market share. In other cases the technical needs of military shipping coincided to only a limited degree with the needs of the merchant fleet. The container ships that dominate international shipping and the U.S. merchant fleet are virtually useless for the short-notice transport of tanks and other military equipment that must be rolled aboard. Prepositioned ships operated by the military—Roll-on-Roll-off (or "Ro-Ro") and fast sealift vessels, for example—and a well-maintained, standby reserve fleet structured to meet changing defense needs would be more useful in providing rapid response and deployment. Continuing to tie the military to the viability of the commercial fleet today benefits neither party and, in fact, may harm both. Eliminating the already severed national defense linkage from civilian maritime policy is thus a necessary first step toward a rational consideration of the future of the U.S. commercial fleet.

The first casualty of this new policy would be the operating differential subsidy. The question is no longer how to save or reform this subsidy, but how to eliminate it in a way that maximizes the probability that the U.S. flag fleet can be saved and even expanded. Although the subsidy could be capped as a start, a more effective policy would entail a phased elimination of the subsidy in a way that allows U.S. carriers to adjust. One option would be simply to eliminate the subsidy as contracts expire and simultaneously to eliminate labor, market, and other flag restrictions.

Another alternative would be to incorporate a build-abroad option, combined with a per ship operating differential subsidy cap based on Coast Guard-derived manpower requirements and a phasedown of subsidy payments using a formula based on existing contract expiration dates. Given, in addition, the authorization to build and seek greater ownership or financing abroad and to use mixed crews, U.S. carriers would thus have an opportunity to become strong competitors in the international trades.

Reducing or eliminating the personnel restrictions applied to U.S. flag carriers is as critical a piece of the puzzle as any other. The most cost-effective course would be full authorization for the use of international or mixed crewing. If the Defense Department identifies an actual wartime manpower requirement, then this could be met with a minimum American manpower commitment to, for example, two or three jobs on each ship on the basis of high-need, low-availability national defense categories. The subsidy would follow the specific jobs and would be limited to the incremental cost of maintaining the billet as American. Thus, national defense manpower requirements, if they really exist, need not be jeopardized.

A merchant marine reserve offers comparable advantages, and it would quantify and specify the military manpower requirement in a way that allows the military to advertise for and train individuals for availability in wartime—just as we now do in the other military reserves. This merchant marine reserve, with manpower requirements tied to specific reserve vessel billets and skill requirements, could be phased in as the operating differential subsidy is phased out. The Navy could, as another alternative, simply redirect a small portion of its existing naval reserve program to this purpose, at only the net cost of the transition.

The final and most potent element in reforming the commercial sector would be the consolidation of oversight and control of defense-related maritime programs in the Department of Defense. If defense is the skirt behind which maritime promotional programs are hidden, then let the defense planners decide when to lift it. Defense planning and budgeting would be better served under Defense Department control, and taxpayers would be better protected under a system where maritime budget allocation decisions had to compete with defense programs that realistically serve as substitutes or complements.

SHIPYARD POLICY

The fate of American commercial shipyards occupies a crucial place in the policy arena. Although the shipyards have historically driven much of the debate regarding maritime policy—certainly the modern build-American requirement—today the yards are almost universally viewed as an albatross around every other sector's neck. Over the past decade, the industry has lost a third of its capacity and more than 7,000 jobs, and today only one major oceangoing vessel is under construction in an American commercial yard. This has led to considerable political anxiety, but-despite rhetoric to the contrary, it is not at all clear that the anxiety is generated by defense concerns.

From the national defense standpoint, two questions about U.S. shipyards are relevant. Is there any foreseeable military circumstances in which the United States will have the time or luxury to wait the one-and-a-half to two years necessary to build a ship for use in supplying troops at war? If not, is there a special policy requiring the maintenance of ship repair facilities for ship combatants in need of repair or breakout?

In response to the first question, regional or isolated wars of the sort we have seen over the past ten years are generally viewed as the most likely types of conflicts in the foreseeable future. The speed of those wars would preclude the construction or use of

any vessels not in the fleet at the outset of the conflict. If a global war should break out, it is not likely to involve extended conventional warfare. There is little military justification for subsidizing commercial shipyards to build supply ships for a type of war we are unlikely to fight. This is independent, of course, from the naval shipbuilding programs that respond to longer-term defense needs.

On the other hand, reliable, U.S.-based repaid facilities would be needed if the United States were involved in another war. But shifting the emphasis to repair facilities also suggests a much lower-level policy response than the industrial policy that is in place today.

In fact, commercial shipbuilding may well be able to stand on its own, but a variety of policy changes are required to give shipyards the flexibility and the marketing mindset needed to compete effectively. First, competition itself is necessary to promote a competitive shipbuilding industry. Current restrictions on the use of foreign-build or foreign-repaired ships in either international or domestic commerce should be removed. Second, restrictions on the sale of U.S.-made, noncombat military vessels should be eliminated. Third, a limited, temporary, OECD-acceptable export credit program should be instituted to legitimately promote sales of U.S. ship products overseas. Fourth, federal R&D assistance to shipyards could be increased. Finally, there must be a serious commitment to pursuing government-to-government efforts—through GATT and other international forums—to reduce unfair practices, subsidies (both direct and indirect), and market impediments.

These approaches are aimed at three things: creating a competitive environment, benefitting from any comparative advantage that may exist in American shipbuilding, and creating a cash flow that leads to the renovation of aging yards. No policy can guarantee a competitive industry that no longer lives on federal handouts, but continuing current policies, notably the build-and-charter programs or reviving the construction differential subsidies, would without doubt perpetuate an uncompetitive dependence on taxpayer largess. And that largess is reaching its limits.

THE NEED FOR REGULATORY REFORM

If the promotional programs described herein are tied to arguably legitimate (although perhaps misguided) policy objectives, the FMC's regulatory mandate is far more tenuous, for it is based on the notion that a free fleet cannot compete in subsidized, cartelized, noncompetitive world markets.

The FMC operates under four basic statutes—the 1916 and 1936 Shipping Acts, the 1984 Shipping Act, and the 1988 Trade Act. These statutes constitute the basic regulatory regime covering roughly half of ocean trade—the ocean liner or regularly scheduled common carrier portion of ocean shipping. The other half of ocean trade—that which carries bulk commodities such as oil and grain—is virtually unregulated from an economic standpoint.

A recent FMC study noted that the commission's regulatory focus has been on enforcing "requirements that international shipping practices be just, reasonable, and nondiscriminatory" and that international liner shipping regulation has "never" controlled entry or prices. The study also reported, "A second major difference between the regulation of ocean shipping and the regulation of other domestic transportation industries is the international scope of the activities involved." These statements, which are disingenuous at best, nevertheless articulate two key flaws embedded in maritime regulatory policy: first, that the international scope of the activities involved is more significant than those of other transportation sectors (the aviation industry would no doubt disagree), and second, that there are no barriers to entry.

Although the FMC administers no direct carriage barriers, significant barriers to both entry and exit, to financial innovation, and to management flexibility clearly exist in the network of federal policies from which regulatory policy cannot be divorced. The purpose of the flag restrictions and the Jones Act is, after all, to limit entry. Furthermore, the FMC itself enforces several indirect entry barriers. Bonding and tariff requirements for transportation middlemen, the enforcement of cartel pricing through the FMC's tariff-filing requirements and antidiscount rules, and the administration of other programs, including rate determination for domestic offshore (Jones Act) shipping, all serve to discourage new entrants.

There are modest genuflections to competition contained in the 1984 Shipping Act (which serves as the guidepost to the current commission). The 1984 changes have led casual observers to suppose that ocean carriage has been deregulated just as other transportation sectors have been. The reality, however, is that the adjustments introduced in 1984 merely provided protective cover from the Justice Department's Antitrust Division. Despite the limited nature of the changes, however, mandatory independent action (which allows a carrier to break from cartel pricing on one day's notice) and service contracting (which allows carriers and shippers to write public contracts outside the tariff, the terms of which must be made available to all who are willing and able to take them) provide at least a glimpse of what could happen in a competitive market. True deregulation will have occurred, however, only when policy reforms are aimed at encouraging market-based competition, increasing customer/shipper options, and increasing benefits to American consumers. No such emphasis appeared in the 1984 act which is, at bottom, really designed to protect ocean carriers and the carrier cartels.

The century-old ocean carrier cartel (or conference) is one of the most defining and tenacious characteristics of the liner trade. At the turn of the century, the conferences were closed and thus met the test of a true cartel. Today, conferences in the American trades must be open—they must allow any carrier that meet their conditions to enter—but their ratemaking and market-restricting practices not only remain but are strengthened and enforced by government action. The conferences enjoy virtually blanket antitrust immunity, and the FMC enforces the tariffs. The commission's ability to intervene in conference actions is also limited to a few narrowly defined findings of unreasonable increases in price and decreases in service.

It is time for the American trading community to ask why the maritime industry should be treated differently from other international businesses. Are ratemaking cartels, revenue pools, restrictions on the right to contract with shippers, and so-called stabilization agreements that keep 10 and 20 percent of capacity off the market any more appropriate here than in trucking, rail transportation, retail sales, or the oil industry? If we oppose such practices in other industries, why not in ocean shipping?

Those who defend the cartel structure argue that modern ratemaking groups bear little resemblance to the early conferences. Proponents argue that the conferences are evolving from rate-setting cartels to efficiency-oriented organizations that help "rationalize" the ever-changing interactions between the supply of and demand for ocean carriage space. If the conferences are, in fact, undergoing such a metamorphosis, the U.S. government should be taking steps to speed the process. The reduction or elimination of antitrust immunity for ocean conferences, the removal of impediments created by the tariff-filing and enforcement process, and the removal of restrictions on the ability of individual shippers and carriers to write individualized contracts would all be steps in the right direction. Taken together, these reforms would create a revolution in shipping and would set a benchmark much of the international community would have to follow. There are three defining needs in regulatory reform.

ANTITRUST IMMUNITY

The 1984 Shipping Act gives virtually blanket antitrust immunity to the ocean conferences. The bulk of this immunity can and should be removed. Carrier antitrust protection for all rate-setting activities, including the authority to discuss, fix, or regulate transportation rates, should be eliminated. Similarly, antitrust immunity applying to pooling (revenue-sharing) agreements should be removed. Successful pooling agreements are a significant impediment to flexible service, to technological and structural innovation, and to price competition. Because pooling agreements are usually effective only in trades where government support for them exists (the South American trades, for example), prohibiting these arrangements would not only improve ocean transportation services but would also provide a disincentive for bilateral agreements restricting ocean trade.

Ocean carriers should, however, be allowed to continue to establish efficiency-enhancing, cost-reducing rationalization agreements. Rationalization agreements that work—space chartering and facilities sharing, for example—often increase the ability of the carrier to compete and enhance its level of service. These types of agreements closely resemble joint ventures, and the Justice Department should be asked to determine whether this type of agreement even needs antitrust immunity. But worthwhile rationalization agreements also need to be distinguished from the capacity-reduction pacts that are simply agreements to restrict the use of vessel space and provide no benefits to shippers. Antitrust immunity for these capacity-reduction pacts should be eliminated.

TARIFF FILINGS

The FMC administers the tariff-filing and enforcement program. All import and export rates must be filed, and a thirty-day wait is required for rate increases to take effect. If antitrust immunity for the conferences were eliminated, tariff- and contract-filing requirements would probably go too, although tariff and contract filings are viewed by many as necessary to the notion of common carriage.

It is frequently argued that the tariff system protects small shippers by giving them access to the same rates the large shippers receive, but it is actually small shippers who are most bound by the tariff rates and requirements. As much as 60 percent of ocean shipping occurs through special service contracts outside the tariff, and these contracts

allow shippers with market power to negotiate rates below the tariffs. There is nothing wrong with larger shippers' receiving volume discounts, but the existing tariff system tends to stymie possible deals for smaller ocean carriage users by discouraging rate reductions. In practice, tariffs generally provide few, if any, of the theoretical benefits of common carriage said to justify the system.

Enforcement by the FMC centers on eliminating discounts or, as they are sometimes called, rebates. Under the tariff system a carrier cannot reward loyalty through a tailored customer discount as it could in any other line of business. Where most would see a legitimate market practice, many in the ocean trades wrongly see unfair competition.

When the common carriage—unfair competition myth is set aside, the combination of tariff filing and enforcement is nothing more or less than interference with the ability of shippers and carriers to arrive at mutually agreeable contracts. Tariff-filing requirements drive competitive ratemaking under the table and turn a legitimate rate discount into an illegal rebate. Shippers and their customers end up paying more for ocean transportation than they would under a more liberal system.

Current tariff-filing and antirebate rules should be eliminated, or if tariff filing is retained, the thirty-day advance filing requirement should be replaced by a same-day filing requirement that would let rates move up and down as market forces dictate.

SERVICE CONTRACTS

In 1984, 459 specialized service contracts (the essential terms of which are made public) were filed with the FMC. In 1989 the number of contracts had increased by more than ten times to 5,250. Both shippers and carriers clearly view service contracts as beneficial.

The ability of carriers to write independent service contracts should be expanded, if not completely deregulated. If the conference system is retained, then the FMC's power to regulate or prohibit the use of service contracts should be eliminated. Furthermore, the contracting parties should be allowed to keep the essential terms of their agreements secret. Such privacy, which is afforded most other contracts, would accelerate the pace of the transaction and thus would increase competition.

THE FUTURE

Shipping interests and farming interests fight over cargo preference requirements. Gulf Coast seaports battle Great Lake ports over set-aside provisions. MarAd has been hauled into court by one maritime union that feels a recent subsidy decision will unfairly benefit a rival union. Various U.S. flag companies are involved in protracted legal battles over whether there is excessive competition in the protected West Coast-to-Hawaii trade. Is this any way to run a merchant marine?

It is no wonder that the U.S. merchant marine is in trouble. It is time to recognize that the U.S. flag fleet is in serious trouble because of the programs established to save it. Jones Act requirements, protective conferences, regulatory restrictions, and subsidies encourage, indeed often require, highly uncompetitive cost structures. Attempts to salvage these programs drain resources from the battle against the ultimate culprits—unfair practices abroad and labor and management lethargy at home.

The heart of our maritime policy has always been industry protectionism. Although some observers view maritime laws as the major part of the problem, others have come to live by them. Seamen and shipyard workers, bankers and vessel owners, and government regulatory officials and civil service maritime planners worry about what would happen if subsidies were cut, cargo preferences limited, or cabotage laws revised. The key differences between those who favor continuing these programs and those who favor more market-based reform are the fears of the former that the U.S. shipping and shipbuilding industries simply cannot compete effectively. But the industry is in serious trouble now, and the only hope for turning it around over the long term is through procompetitive reform.

It cannot be true that the best this nation can do in terms of maritime policy is to increase the taxpayer and consumer burden through continued subsidies and economic protectionism while maintaining the government flag penalties that create the problem. Fundamental economic questions must be tackled directly, and changes that reflect the real interplay of markets and competition must be considered and implemented. It is time to set aside the perceived limitations arising from both industry mythology and nationally self-inflicted restrictions.

If the maritime industry wants to be a competitive trade position by the end of the century, then we must realize that other economic actors will increasingly lay by the rules of markets and competition. The limits we place on our ability to play by these rules will be reflected in our shippers' inability to innovate and compete. And the limitations themselves will only be a mirror of our own inability to play on the world stage.

MARAD officials state that a "Master" typically works six months of the year, while collecting over $142,000. There are other "Masters" that earn an even greater amount.

OCEAN-GOING COMMERCIAL FLEET PAY CLASS A3 AND B—CREW WAGES AND FRINGE BENEFIT COSTS PER MONTH BILLET

Job title	Crew		W-2 wage range		Employer cost fringe benefit plan		Total cost to employer	
	A3	B	A3	B	A3	B	A3	B
Master	1	1	$11,914	$7,515	$14,116	$8,346	$26,030	$15,861
Chief	1	1	8,198	5,511	7,531	5,931	15,730	11,443
2d mate	1	1	6,283	4,310	6,519	5,406	12,803	9,716
3d mate	1	1	5,687	3,969	5,754	4,879	11,442	8,849
CF. eng	1	1	11,649	7,297	14,214	8,082	25,864	15,380
1st A.E	1	1	8,198	5,511	7,531	5,932	15,730	11,443
2d A.E	1	1	7,433	4,310	6,736	5,406	14,168	9,716
3d A.E	1	1	6,667	3,969	5,939	4,879	12,606	8,849
Radio E	1	1	5,879	5,879	7,336	7,386	13,264	13,264
Bosun	1	1	4,210	3,577	2,167	1,767	6,368	5,346
A B	5	5	3,742	3,196	1,904	1,677	28,234	23,104
Gen. Util	2	2	3,636	3,094	1,847	1,636	10,968	9,547
QMED	1	2	4,466	3,476	2,296	1,717	6,762	10,387
Std/cook	1	1	4,466	3,577	2,296	1,767	6,762	5,345
Chf. cook	1	1	3,992	3,273	2,039	1,615	6,032	4,889
Utility	1	2	3,406	1,956	1,723	1,351	5,130	6,616
Total	21	23						

Note.—The cost to the taxpayer of all wages and fringe benefits for the selected representative vessel types on a monthly basis ranges between $218,000 and $172,000. Measured as a daily average cost per job, and ignoring the variation between high paid and low paid job categories, the range for the selected types is $346 to $229. While vessel types "A3" and "B" are representative of a broad cross-section of the privately-owned U.S.-flag merchant fleet, there are both larger and smaller vessels in the fleet. No allowance has been made for either employer payroll taxes or employee income taxes. Take-home pay is substantially less than the "W-2 Wages" (gross pay). The amounts shown in the last column, "Total Cost to Employer," are reduced, on average, by the amount of operating-differential subsidy shown in the response to question five ($8,800).

Source: Maritime Administration.

DOD COMPOSITE FISCAL YEAR 1992 AVERAGE RATES REPORT FOR THE PRESIDENT'S BUDGET YEAR 1992

[Salary ceiling: $56,500; Social Security tax: 7.650 percent]

	Man years	Rates			VHA	FICA	Total	Retired pay ACC Percent 42,700	Grand total
		BAS pay	Subsistence	BAQ					
Officers:[1]									
0-6	13,379	61,339	1,598	6,900	1,794	4,246	74,877	26,192	101,069
0-5	31,589	50,483	1,698	6,868	2,069	3,862	84,870	21,656	86,426
0-4	61,437	41,498	1,598	5,810	1,692	3,176	63,773	17,720	71,493
0-3	102,033	34,020	1,598	4,487	1,325	2,602	44,032	14,527	58,669
0-2	38,132	26,492	1,598	3,327	991	2,027	34,436	11,312	46,747
0-1	26,865	19,377	1,598	2,794	786	1,482	26,037	6,274	34,311
W-4	2,819	38,499	1,598	5,048	1,292	2,945	49,382	16,439	65,821
W-3	4,618	31,658	1,698	4,201	1,082	2,421	40,960	13,618	64,478
W-2	8,282	26,404	1,698	3,462	992	2,020	34,476	11,276	46,761
W-1	3,083	21,733	1,698	2,696	747	1,663	28,436	9,280	37,716

DOD COMPOSITE FISCAL YEAR 1992 AVERAGE RATES REPORT FOR THE PRESIDENT'S BUDGET YEAR 1992—Continued

[Salary ceiling; $56,500; Social Security tax; 7.650 percent]

	Man years	Rates			VHA	FICA	Total	Retired pay ACC Percent 42.700	Grand total
		BAS pay	Subsistence	BAQ					
Total officers	282,227	36,759	1,598	4,696	1,380	2,709	46,142	16,269	61,411
Enlisted:									
E-9	14,536	33,596	1,488	4,620	1,384	2,670	43,658	14,346	58,003
E-8	34,973	27,338	1,488	4,173	1,168	2,091	36,244	11,872	47,916
E-7	135,882	23,169	1,488	3,638	964	1,772	30,931	9,893	40,824
E-6	234,961	19,267	1,488	3,190	814	1,473	20,222	8,223	34,446
E-5	338,988	16,240	1,488	2,476	574	1,243	22,021	6,934	28,965
E-4	418,384	13,168	1,488	1,695	377	1,007	17,676	6,623	23,298
E-3	239,010	11,291	1,488	1,109	269	864	16,021	4,821	19,842
E-2	125,087	10,450	1,488	675	137	799	13,549	4,462	18,011
E-1	86,438	8,880	1,488	416	84	679	11,547	3,792	16,338
Total enlisted	1,628,259	16,295	1,488	2,059	606	1,171	20,619	6,531	27,050
Total E-1/0-6	1,910,486						24,303		32,126
Total E-1/E-3	450,536						13,870		18,394

[1] Excludes general officers (999 man years).

Note:—One time cost of: Officer accession—Clothing, 300, travel, 2,857, total, 3,257; Officer loss—LSTLP, 4,026, travel, 3,021, total, 7,047; Enlisted accession—Clothing, 922, travel, 781, total, 1,703; Enlisted loss—LSTLP, 877, travel, 1,128, total, 2,006.

[From the Wall Street Journal]

TORPEDO SHIPPING PROTECTIONISM

(By James Bovard)

The Jones Act of 1920 requires all shipping between U.S. ports to be carried on American-built, American-owned, and American-crewed ships. Though this trade restriction effectively dates back to 1817, a recent proposal by the Nordic countries to include shipping restrictions under the proposed GATT Services Code has sparked hope of abolishing this costly burden on American consumers. (The Bush administration, the world's premier free-trade theoreticians, opposes the Nordic proposal).

Shipping has long been one of America's leakiest industries. In the year the Jones Act was enacted, it cost twice as much to build a ship in the U.S. as in Britain. By 1959, American shipping costs were seven times higher than some competitors'. The Congressional Budget Office reported in 1984 that American shipyards charged three times the price of Japanese and Korean yards and were slower in delivery. Naturally, the less competitive a U.S. industry, the more vigilant Congress is to dragoon customers for it.

Since Congress has given U.S.-flag ships a captive market, congressmen feel entitled to force American shippers to hire American workers, and strong unions guarantee exorbitant salaries. U.S. ship crews cost six times more than Third World crews; American shipmasters routinely cost shipping companies $300,000 at year. The high pay breeds corruption: An FBI sting operation recently discovered that shipping jobs are illegally being sold by one maritime union.

A recent U.S. International Trade Commission study concluded that abolishing the Jones Act would save consumers as much as $10.5 billion as a result of lower shipping costs, while U.S. maritime operators would lose only $630 million in profits. Thus, the Jones Act could be costing consumers $17 for every $1 of domestic shippers' profits. Federal Maritime Commissioner Rob Quartel, who is championing the repeal of the Jones Act, estimates that the total savings from repeal could actually be $20 billion or more, as the ITC estimate did not include the costs of shipping restrictions on Great Lakes trade, forgone tax revenue, indirect effects on smaller industries, etc.

The Jones Act, by making water-borne transport far more expensive that it otherwise would be, partially nullifies the benefits of the Panama Canal for transporting goods from coast to coast. This makes it more difficult for Pennsylvania steel producers to compete against Japanese steel in California, or for West Coast lumber to compete with Canadian products in the eastern U.S. The ITC estimated that Jones Act restrictions destroyed over 2,000 jobs in agriculture, forestry, mining, and other industries.

Sean Connaughton of the American Petroleum Institute notes, "We are seeing more and more oil imports in the Northeast, and imports have driven out a lot of the previous coastwise oil trade from the Gulf Coast. The Jones Act is a very significant factor in this." U.S. oil shippers cannot compete with foreign tankers with far lower operating costs. According to the General Accounting Office, the Jones Act restrictions on oil shipping helped cause a serious shortage of heating fuels on the East Coast during a severe cold snap in December 1989.

Americans also have minimal opportunities to travel domestically on passenger ships, largely because of the Passenger Services Act of 1886, a Jones Act equivalent for the passenger cruise industry. In a free market, foreign cruise ships would offer pleasure trips from New York to Baltimore, Savannah, and Miami, and from San Diego to San Francisco. But cruise ships are prohibitively expensive because of federal buy-American and crew-American mandates. Seattle is especially victimized, as each year, hundreds of thousands of tourists fly to Seattle for cruises to Alaska—but then cross over to Vancouver, Canada, in order to catch the cruise ships. Mark Sullivan of the Port of Seattle estimates that the restrictions cost Seattle a minimum of $30 million a year in lost tourist business.

Shipping protectionism has been extended to dozens of types of boats over the years, including Hovercraft, sewer sludge carriers, and dredging ships. The Customs Service has even banned whitewater tour companies from using foreign-made inflatable rubber rafts on American rivers.

The Jones Act is often defended as providing a reserve fleet for military emergencies. But Commissioner Quartel notes that of the 400 ships used in Desert Shield by the Military Sealift Command, only one ship subsidized by the Jones Act was used. (Jones Act ships tend to be too old or of the wrong type to aid a war effort).

The Jones Act is supposed to stimulate U.S. shipbuilding. But, as New York shipping consultant Michael McCarthy observes, "There is only one commercial ship being built in the United States today—a fairly small container ship, at about twice the price of what it would cost to build abroad." Thomas Crowley, chairman of Crowley Maritime Corp., believes that the performance of American shipyards has been ruined largely by their reliance on government contracts: "Any shipyard that does Navy work isn't worth a damn for commercial work."

Though the Bush administration is demanding that foreign governments end their shipbuilding subsidies, it refuses to recognize the implicit subsidy the Jones Act provides to U.S. shipyards. Deputy U.S. Trade Representative Linn Williams declared last February that the act does not amount to a "hill of beans in terms of subsidies" and is a "commercially meaningless program" because so few commercial ships have been built in the U.S. in recent years. But, as the American Petroleum Institute's Mr. Connaughton observes, "That's kind of like saying that because we have destroyed an industry, let's make sure it never rises again."

The Jones Act engenders a chain reaction of extortion—allowing American shipyards to charge stratospheric prices to American ship buyers, allowing American-flag ships to charge shakedown shipping rates to American businesses, and allowing American congressmen to demand lavish campaign contributions from the American maritime industry (more than $1 million a year).

U.S. maritime lobbies have been so generous that three of the past five chairmen of the House Merchant Marine Subcommittee have been indicted for criminal links to the maritime industry, as Congressional Quarterly reported. (A fourth chairman was indicted for other reasons.) Former Rep. Thomas Ashley declared that the House Merchant Marine Committee "sucks from the taxpayer; it sucks from anything that isn't nailed down."

While the Jones Act fleet is relatively small and old, there are 300 U.S.-owned ships flying foreign flags. If Congress actually wanted a large U.S.-flag fleet, it could easily create one almost overnight by abolishing the build-American and crew-American requirements on U.S. owners of foreign-flagged vessels who might otherwise choose to fly the Stars and Stripes. But Congress is more interested in perpetuating maritime campaign contributions—and those contributions can be garnered only by federal policies that continue sabotaging U.S. maritime competitiveness.

Mr. BREAUX. Mr. President, I raise the point of order that the pending amendment of the Senator from Iowa violates section 305(b) of the Congressional Budget Act of 1974.

Mr. GRASSLEY. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the germaneness re-

quirement with respect to this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Under the previous order, this motion to waive is not debatable.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. Dixon], the Senator from Georgia [Mr. Fowler], the Senator from Nebraska [Mr. Kerrey], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announced that, if present and voting the Senator from Wyoming [Mr. WALLOP], would vote "yea."

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

The yeas and nays resulted: yeas 29, nays 61, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—29

Bond	Hatch	Pryor
Brown	Helms	Roth
Bumpers	Jeffords	Rudman
Burns	Kassebaum	Simon
Coats	Kasten	Simpson
Craig	Kohl	Smith
Dole	Lugar	Symms
Domenici	McConnell	Thurmond
Durenberger	Nickles	Wellstone
Grassley	Pressler	

NAYS—61

Adams	Ford	Mitchell
Akaka	Glenn	Moynihan
Baucus	Gore	Murkowski
Bentsen	Gorton	Nunn
Biden	Graham	Packwood
Bingaman	Harkin	Pell
Boren	Hatfield	Reid
Breaux	Heflin	Riegle
Bryan	Hollings	Robb
Burdick	Inouye	Rockefeller
Byrd	Johnston	Sanford
Chafee	Kennedy	Sarbanes
Cochran	Kerry	Sasser
Cohen	Lautenberg	Seymour
Conrad	Leahy	Shelby
Cranston	Levin	Specter
D'Amato	Lieberman	Stevens
Daschle	Mack	Warner
DeConcini	McCain	Wofford
Dodd	Metzenbaum	
Exon	Mikulski	

NOT VOTING—10

Bradley	Garn	Wallop
Danforth	Gramm	Wirth
Dixon	Kerrey	
Fowler	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 29, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I cannot hear the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Chair is prepared to rule on the amendment.

The amendment of the Senator from Iowa contains nonbinding language outside the jurisdiction of the Budget Committee and it is, therefore, not germane to the budget resolution.

The point of order is sustained. The amendment falls.

Mr. SASSER. Mr. President, before yielding to the majority leader and going to the final adoption mode of this resolution, I want to tell my colleagues that the underlying resolution is the House budget resolution. If this resolution that we are going to vote on here in just a few moments fails, then we are back on the House budget resolution and another 50 hours to dispose of it.

So I hope all of our colleagues will understand that when they cast their vote.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, we have devoted so much time and effort and energy to this process that it is easy to lose sight of the fact that the budget resolution is not a statute. What we are voting on does not and cannot become law. It is a procedure by which we are enabled to move to enacting law.

The only binding things in this resolution are the aggregate numbers and the allocation to committees. Let us not lose sight of that. We have to pass this resolution. If we do not, we are right back here. We are going to stay here until we pass a resolution because we cannot proceed to enact laws unless we pass a budget resolution that enables us to move to that next step under our procedures.

So I encourage all Senators to join us in supporting this resolution to permit us to proceed and to permit Senators to leave for the forthcoming Easter recess.

If this does not pass, we are not going anywhere.

Mr. DOMENICI. Mr. President, I just wanted to say to everyone, I do not think you really would want to put up with me for 50 more hours. And, frankly, I would not want to put up with you either. But I think we have a responsibility here to pass this. It is more on the majority to pass the budget resolution but, without going into detail, a lot of this has things in it that we on this side want. In fact to be honest about it, we, but for a few things here and there that are hard to find, it is kind of, our resolution. But we are going to make sure we wait around to see how many on the other side vote for it.

I yield to the leader.

Mr. DOLE. Mr. President, I just make one quick point. The majority leader has already said we are going to stay here if it does not pass, so I would not get in too big a hurry to line up there.

In any event, it does maintain the discipline. We are still living by the caps. There are no new taxes. We protect Social Security—the Bentsen amendment. There are a lot of good things in this budget resolution. And a lot of things none of us like. Some of us do not like the defense numbers; others of us do. We do not like the numbers. But in the final analysis we need the discipline. We need to move on to the appropriations process. The distinguished Senator from West Virginia and the Senator from Oregon want to do that. So I urge my colleagues on this side to vote for the budget resolution.

Mr. MITCHELL. Mr. President, I would like to make one announcement. Immediately after disposition of this resolution I am going to propound a unanimous-consent request to deal with the handling of the so-called coin legislation, which I hope to get to when we return—the coin legislation. Any Senator who has an interest in that should remain because we are going to set up a procedure—we are going to try to get an agreement to set up a procedure for moving to and disposing of that legislation.

Mr. CONRAD. Mr. President, I wish to be recorded as voting no on final adoption of Senate Concurrent Resolution 106, the fiscal year 1993 budget resolution. It is time to address the fiscal crisis facing this Nation. This resolution does not do enough to reduce the deficit, nor does it make the policy decisions necessary to address our changing world. It does not acknowledge that the cold war is over and the Soviet Union no longer exists. We must tell our allies that we can no longer pay their bills. We must move beyond burden sharing to burden shedding. The Senate budget resolution does not do enough to make our country more productive by investing sufficiently in education and training, technology and infrastructure. We must come out of our partisan political trenches and make the decisions necessary to set this Nation on the right track.

Mr. KERREY. Mr. President, I oppose the pending budget resolution.

I believe that our defense reductions can be larger than those in the pending resolution. I believe we can and must rearrange our domestic spending priorities and I believe we must deal effectively with the deficit. I do not see this in the pending resolution.

The resolution before us reflects the priorities of the cold war. It says that

we will stay with the spending priorities included in the 1990 budget agreement, negotiated before many of the recent dramatic changes in the world had unfolded, and recommending spending allocations that reflect the needs of a cold war economy.

I agree with those who contend that the world is still not a safe place. I agree that new threats require new contingencies. I agree that changes in Eastern Europe and the former Soviet Union are fragile; that they contain the seeds of historic failure as well as the seeds of historic change. But, I would also argue that the threat has changed in such a way that to return to the previous status quo is simply unrealistic.

The resolution before us says that we will continue spending for a defense program based on the threat of the cold war rather than the altered threat we now face. I was happy to support the amendment of the senior Senator from Nebraska [Mr. EXON] which would reduce defense spending by $8.8 billion below the President's figure and allocate the savings to deficit reduction. I was disappointed that his amendment, a better response to our changed defense needs, did not pass.

The resolution before us says that we will stay within the 1990 budget agreement's domestic spending limits despite a number of pressing human and physical needs in our country. It says nothing new about the child born into poverty, the drugs and gangs on our streets, our lagging manufacturing base, the thousands of middle-aged Americans who face increasing job insecurity and our young people whose economic futures are so bleak and uncertain. I was also disappointed that Senator BRADLEY's amendment reducing defense spending and allocating the savings to high priority domestic programs and deficit reduction did not prevail. It offered us the opportunity to look beyond the upcoming fiscal year, to plan on a longer term basis and to address both the need for deficit reduction and increased domestic needs.

The resolution before us says that we will live with continuing soaring budget deficits. It projects the second highest deficit in history, second only to this year's record deficit, currently projected in the area of $400 billion.

However, it is important to point out that this resolution has as its starting point the President's fiscal year 1993 budget recommendations. As the chairman of the Finance Committee, Senator BENTSEN, pointed out in an excellent oped piece in the April 5 Washington Post, making a significant dent in the deficit requires leadership from the White House—and we're not getting that leadership. I share that view and would add that the lack of leadership hinders our ability to restructure our economy and reset our domestic priorities to meet the requirements of the next century and the needs of our children and grandchildren.

The bottom line for me is that this budget resolution, designed as it perhaps must be for passage, is budgeting as usual.

It is budgeting as usual when the map of Europe has been redrawn. It is budgeting of $280 billion of our resources for threats which have dramatically changed.

It is budgeting as usual when 7.3 percent of our work force—some 9.2 million Americans—remain unemployed. It is budgeting as usual when 3.2 million of those people have been unemployed longer than 15 weeks and when two out of three Americans are worried about job security. It is budgeting as usual when we need growth and conversion plans, increased research and development and additional attention to critical and emerging technologies, new processes and applications. It is budgeting as usual when we continue to fail to fully fund Head Start and other human resource programs which represent investments contributing to great productivity in the future.

It is budgeting as usual when our Federal debt stands at $3.7 trillion. If that were handled as a 30-year mortgage, it means that every family of four in this country would have a monthly payment of $505 for the next 30 years. It means that I can hand my children and every other American in the work force a debt of $84,000 when they graduate from college. It means, as we have seen, that our ability to respond to economic slowdowns and other difficulties is severely limited, perhaps more limited than at any time in our history.

The immediate task is to move this year's budget process along. But, the resolution does not serve us well. The resolution does not force us to look at our economy and to determine how to maximize economic growth in our country. It does not force us to come to grips with the escalating cost of health care entitlements, the fastest growing portion of the Federal budget. It does not force us to deal with our lagging competitiveness, our low productivity and their impact on our standard of living.

I know that the chairman of the Senate Budget Committee labored long and hard to develop a resolution. Early this year, he and the chairman of the Joint Economic Committee held hearings on the state of the U.S. economy. He then worked to develop a realistic response to the testimony received. He has been thwarted on several fronts, both in committee and on the Senate floor.

I regret that I cannot support the resolution because I understand the need to advance the budget/appropriations process. It is April and we need to get our work done.

But, I believe we need a new agenda. We need an agenda based on new world order and new economic realities. We need an understanding of where we are and where we must go. And, we need tax, budget and fiscal policies which will take us there.

Mr. DURENBERGER. Mr. President, during the course of this week, we have debated and decided on measures to limit increases in the deficit between what we will spend and what we will raise to pay for it. We even were fortunate enough to pass a resolution calling for a vote-certain this year on a constitutional amendment requiring a balanced budget.

But none of these votes will do as much as simply withholding my vote for the $1.208 trillion 5-year budget deficit increase in this budget resolution. So I will vote no and urge my colleagues to do the same.

This is a budget that stands for doing business-as-usual in America. It is a budget that tells the American people that everything is fine in Washington; we will continue to take money from your children and your grandchildren to pay for our current consumption.

All a Member of this body has to do is look at the revenue and spending numbers projected for the next 5 years and you will see why the American public is so angry with their Government.

Under this budget, in 1993 we will spend $1.5 trillion. In 1994, we will spend $1.526 trillion. In 1995, $1.539 trillion. In 1996, $1.598 trillion. And in 1997, $1.722 trillion. That's $7.88 trillion that we will spend over the next 5 years.

But Mr. President, there's one thing missing from this budget. And that is the revenue to pay for this spending. This budget represents a promise that cannot be fulfilled without borrowing from our children. For this budget is $1.208 trillion short of revenue. In other words, this budget guarantees that we will add $1.208 trillion to the $4 trillion national debt.

Under this budget, by 1997, net interest paid on the national debt—after deducting all trust fund interest income of more than $100 billion—will be nearly identical to what is projected to be spent on national defense—$280 billion. From what I know from my 14 years in the Senate, the spending projections in this budget are too low, and the revenue projections are too high. The end result is that by 1997, if we maintain this course, the debt will not be $1.2 trillion higher, but $2 trillion higher. And net interest payments will be over $300 billion.

Mr. President, we cannot maintain this course any longer without bankrupting our Nation. We are being consumed by debt and deficits. Interest payments and debt are strangling our capability to govern and meet the challenges of the 21st century. And if we are ever going to do anything that will reverse this course, we must look at all government spending including spending entitlements and tax entitlements.

In 1960, we spent $92 billion for the entire Federal Government; 52 percent of the 1960 budget was devoted to national defense; 8 percent went to pay interest; and 26 percent of that budget was mandatory entitlement spending. The remainder of Federal spending, 20 percent, was domestic discretionary spending.

Where are we today—33 years later? We're spending 1,600 percent more money under this budget—$1.5 trillion. And where is Federal spending going? Fifty-one percent is for mandatory entitlement spending. Fourteen percent is for interest. Defense and foreign affairs makes up only 20 percent. And domestic discretionary spending is down to 15 percent.

In other words, Mr. President, in the budget we have before us today, 65 cents of every dollar of Federal spending is for entitlements and interest. Put another way, what the Federal Government is fast becoming is an income transfer program that merely sends out checks to pay for services and loans.

Earlier today, we debated a bipartisan amendment offered by the distinguished ranking member of the Budget Committee, Senator DOMENICI and the chairman of the Armed Services Committee, Senator NUNN. That amendment would have capped all of the entitlement programs in this budget with the exception of Social Security.

An across-the-board cut in entitlements does not provide a rational way to achieve programmatic reform. Each of the entitlement programs that would have been capped—Medicare, Medicaid, unemployment compensation, food stamps, AFDC, veterans benefits, agriculture, Federal retirement—need to be closely examined to determine how they can be streamlined and reformed.

In many senses, it would be unfair to cut all of these programs because each of them is not an equal contributor to the problem of Federal spending. Growth in the Federal retirement programs was 6.7 percent a year between 1980 and 1992. Growth in veterans benefits was 2.5 percent. Growth in AFDC was 6.3 percent. By contrast, growth in Medicaid was 15 percent annually during this period and 11.8 percent in Medicare.

Each of these programs needs fundamental reform. An across-the-board approach merely pits one group against the other and in the end, those with the greatest political clout will retain their special benefits while those without a political voice—the poor and children will be left behind.

More importantly, Mr. President, what is lost in the debate about entitlements is that another type of entitlement—tax entitlements are never addressed. What I am referring to are the subsidies we provide through the Tax Code for all types of activities. In 1992, we are providing a $39 billion non-needs-related subsidy to home owners—that's 300 percent more than we spent to subsidize owner-occupied housing in 1980. We've seen an 1,100 percent increase in the subsidy we provide home owners who sell their houses and pay no tax on the gain because they move into a more expensive home.

Mr. President, in 1992, we will provide $108 billion in non-needs-related tax subsidies to individuals and corporations for health insurance. And, if we don't do anything about that entitlement, by 1995, the tax subsidy under health insurance will reach $146 billion in just 1 year, as much as we will spend on the entire Medicaid Program.

Mr. President, many of us are unwilling to stand up and say what we are willing to change; what programs we are willing to slow the growth in; what revenues we are willing to raise. So we come to the point where we are forced to propose across-the-board percentage reductions in the growth of out-of-control programs. We are left with no other voice.

Had the Domenici-Nunn amendment become law, this Congress, and this President would be forced to reform not the budget process, but the value systems that prevent us from voting the courage of convictions.

I commend Senators DOMENICI and NUNN for their leadership in this body. Unfortunately, what we learned earlier today is that we choose to ignore such leaders because the voices of organized constituencies are so much louder.

We could have taken a first step toward gaining control over this country's fiscal future. We could have resolved to give our children a promise of a better future unsaddled by the weight of our debts. But we were outmaneuvered. We were placed in the position of appearing to vote for or against one of the most important groups in our country—veterans. Men and women who have sacrificed for the greater interests of our country.

Mr. President, the veterans of our country, the elderly, the truly needy, the middle class, all of us know that we cannot maintain an economically secure future if we continue to ignore the $4 trillion debt.

My vote earlier today was not a vote against veterans, as some will suggest, but a vote for fiscal sanity. My vote was a vote for veterans because unless we gain control over Federal spending, in less than 10 years there will no longer be money available to provide adequate and decent health and long-term care coverage for our Nation's veterans.

We took a first step today, Mr. President. I, and my 27 colleagues who voted to begin to control entitlements, did not lose. Today America lost. We lost the chance to make a difference and do the right thing.

But for as long as this Senator represents the people of Minnesota, I will continue to vote for those measures that restore fiscal balance to our country.

Measured against that test, Mr. President, I will vote against this budget resolution. It does not address the cancer that is eroding the soul of our Nation. It does nothing to restrain spending. It does nothing to restrain borrowing. It does nothing to change this Nation's direction.

I can no longer go on with business as usual and ask my children and grandchildren to pay for fiscal irresponsibility.

Mr. HATCH. Mr. President, today we are determining the spending priorities of Congress for the next fiscal year. The budget before us, however, is based on the flawed spending path that we set ourselves on when Congress passed the budget agreement of 1990. This agreement constrains every fiscal policy decision we will make this year, and in future years, through 1995.

The stated goal of the budget agreement was to reduce the deficit by almost $500 billion over 5 years by increasing taxes by $160 billion, cutting projected spending growth by $281 billion, and reducing by $68 billion the net interest expended due to lower deficit financing. The deficit for fiscal year 1993, under the projections made at the time of the budget agreement, was supposed to be $236 billion. The budget before us, however, projects the deficit for fiscal year 1993 to be $327.4 billion. What happened, Mr. President? Why did it not work?

In theory, a good way to control runaway spending is to put a cap on it. However, the spending cuts contained in the budget agreement were just an illusion. The cuts were based on a baseline that as considerably higher than any previously projected spending path, so much higher that even after the so-called spending cuts, Congress essentially gave itself a $27 billion gift and Mr. President, we wasted no time in spending it. This and new automatic adjustments to the spending caps for economic and technical considerations have made the caps ineffective and virtually meaningless. Although the budget resolution before us today would set spending at levels below these escalating caps, it cannot be said to control future spending.

Mr. President, in terms of its stated goal of deficit reduction, the budget agreement of 1990 has been a total failure. Under the agreement, the deficit was to be reduced by $42.5 billion in fiscal year 1991. Instead, we saw the total deficit grow from $220 billion in fiscal year 1990 to $269 billion in fiscal year 1991, and an estimated $399 billion in fiscal year 1992 and an estimated $327.4 billion for fiscal year 1993. It is tragic that in the President's budget proposal for fiscal year 1991, prior to the 1990 budget agreement, a surplus of $5.7 billion was projected for fiscal year 1993.

The spending restraint promised by the agreement never appeared, and over the first 2 fiscal years since its enactment, Federal outlays have grown by 18 percent. Spending growth ate up all of the taxes raised by that agreement, and more besides. This budget agreement was just a green light for Congress to continue its tax and spend policies of the past.

Despite all its promises, the budget agreement has allowed Congress to engage in tax-and-spend business as usual. The $160 billion in new taxes that we passed in 1990 were justified as necessary bitter medicine to reduce the budget deficit. We were told that if we bite the bullet now with these new taxes, we would later yield the benefit of a lower deficit. Unfortunately, Mr. President, this turned out to be an empty promise. Congress has a tendency to spend additional taxes rather than devote them to deficit reduction and this tendency is at an all-time high. The historic correlation proves that since 1947, every $1 in new taxes results in $1.59 in new spending. This figure is even higher if you look only at the time frame from the 1990 budget agreement until now. True to form, Congress actually accelerated Federal spending after the 1990 tax increases were enacted, and budget deficits have hit record levels.

Mr. President, this problem is only exacerbated by the adverse effects that these new taxes have had on the economy and on Federal revenues. The total tax revenue expected following the budget agreement of 1990 has not met projections and was, in fact, down by $83.3 billion for the first year alone. This trend has continued beyond the first year of the budget agreement, with fiscal year 1992 tax revenues estimated to be $145.2 billion lower than projections. The cumulative amount of this revenue loss is expected to be an astounding $630.4 billion through fiscal year 1995. Part of the blame for this is the static forecasting method utilized in projecting expected tax revenues. This method ignores the fact that higher taxes often lead to lower levels of employment or growth which would in turn change the baseline conditions. The drop in revenues can also be blamed on the recession, a recession Congress helped create by raising taxes and constricting economic growth. When coupling lower revenues with the spending increases of Congress, we can see how the deficit has grown to its present size.

The fastest growing portion of the Federal budget is that of entitlement or mandatory spending. Mandatory spending—excluding interest—had grown to nearly 45 percent of Federal Government spending in 1991. If you add interest costs, mandatory spending accounted for nearly 65 percent of the budget. This is not acceptable. Mandatory spending grew at a rate of 23.9 percent in 1992, more than twice the rate of domestic discretionary spending growth, and 10 times the rate of growth of international spending.

Over the past 25 years, entitlement programs have roughly doubled in size relative to GNP, and now comprise approximately 11 percent of GNP. These programs are projected to grow at an average of 7.2 percent over each of the next 5 years, comprising 59 percent of the budget in fiscal year 1996.

Mandatory spending is often considered the portion of the Federal budget that is uncontrollable because Congress has chosen to provide continuing funding for these types of activities outside of the normal appropriations process. Once a program is an entitlement, Congress seems to consider itself off the hook with respect to controlling expenditures and spending grows unchecked. This must be stopped.

We must gain some control over the tax and spend habits of Congress and the unbridled growth of mandatory spending. The deficit is becoming a millstone around the neck of this legislative body—it is impeding our ability to pass legislation that would spur the economy, increase our saving rate, ease the tax burden on American families, and improve American competitiveness in a global economy. Controlling spending growth must be our No. 1 priority. We have already proved that increasing taxes is not an effective way to lower the deficit.

Mr. President, 2 short years ago this Nation stood at a crossroads as to how to handle the deficit. Under the Gramm-Rudman-Hollings law, we were facing a deficit target of $64 billion for fiscal year 1991. If we did not meet this target, we would face a sequester that would automatically cut spending and meet the target for us. The Gramm-Rudman-Hollings law was not perfect. I am the first to admit that the sequester we faced 2 years ago would have been a bitter pill for all of us to swallow. But if we had taken our medicine then, we could have had a balanced budget now. Instead, we took the easy way out. We passed the budget agreement that promised a balanced budget in just a few years, without pain or suffering. I submit, Mr. President, that this was a major mistake, and as a result of this mistake, we have not only delayed the pain, we have made it far worse.

So what are we to do, Mr. President? Delaying the difficult decisions will buy us some time, and possibly some political cover. But every day that we delay in making the difficult decisions of restraining spending will mean the ultimate price we pay will be that much more difficult.

I suggest that there is a solution still available to us. Unfortunately, the budget resolution before us is not it. We need to decide collectively to make the hard choices this year. For several years now, the more conservative Members of this body have sponsored bills to require a balanced budget and legislation to hold the growth of spending to the level of inflation. As we all know, these have been unsuccessful. While this would involve making the hard choices, it would help spread the pain evenly over all spending categories and all constituencies. It is time to pass a balanced budget amendment. If we cannot do this, then let us at least pass a budget resolution that limits all spending, including entitlement spending, to the rate of inflation.

Mr. President, I assert that this is the only way to control the voracious spending appetite of Congress. The people of Utah are demanding action to control spending. The deficit is the number one economic concern in my State. We cannot continue to put off the difficult decisions. It is time to face this problem with courage and determination. I urge my colleagues to make the hard choices necessary and take a strong stand against the deficit and support legislation to provide stringent control over spending.

Mr. KERRY. Mr. President, I want to commend what I believe to be the intent of the senior Senator from New Mexico, the senior Senator from Georgia, and the senior Senator from New Hampshire in offering their amendment earlier today.

I am interpreting the intent of those Senators, and others who developed that amendment, to be confronting that portion of the responsibility for the growth in our deficit which is attributable to entitlement programs. I could not agree with them more that we must confront and resolve this problem.

I might not get agreement from them that the Reagan and Bush administrations have an absolutely dismal record in confronting the real cause of entitlement growth. But it is true. I might receive their agreement that the Congress has quite apparently not successfully stepped in to fill the leadership gap at the other end of Pennsylvania Avenue.

Mr. President, I am persuaded that time has run out on the absence of fiscal discipline evidence by our Government. Two Presidents, for 12 years, have delayed and procrastinated, and pandered the American people—and the Congress—to the point that we now are seeing deficits of $400 billion a year. The national debt is projected to hit $7 trillion within 5 years. It is self-evident that the Congress has not on its own accord demonstrated the courage, leadership, and vision to solve this problem.

There has been a great deal of discussion about the fear of many Americans today that the next generation of Americans is going to have a lower standard of living than its predecessor—that our children will not be

able to enjoy a standard of living that we, their parents, have enjoyed. Mr. President, the unwillingness of the Reagan and Bush administrations to effectively lead this Government to a solution of the wildly mounting deficit problem, and the acquiescence of this Congress to that failure of leadership, is contributing more to the likelihood this fear is real than any other single ingredient.

We are borrowing our children's way to the poorhouse. We are borrowing from their future—at a dizzying rate.

Within only another year or two, according to current projections, service of the national debt—the interest the Government must pay for the multiple trillions of dollars it has borrowed—will pass the entire budget for national defense and security, and become the second largest expenditure in the Federal Government's annual budget.

And what do the Nation's taxpayers get for that? What can our children expect to get for those tax dollars that increasingly go to debt service? Not a damn thing, Mr. President. Nothing.

At a time when we have more families living below the poverty level than at any time in the last 20 years, we get nothing for this annual expenditure that will pass $300 billion a year next year, and is expected to pass $350 billion by 1995. At a time when our highways and bridges and railroads and public buildings are crumbling, we are spending—we have no choice but to spend—$300 billion for debt service.

At a time when the Republics of the former Soviet Union and its former Warsaw Pact allies in Eastern Europe are struggling to convert themselves into democracies and free market economies—which, if successful, could make our world a far, far safer place for all of us to live—we are hamstrung in our efforts to help them. Aiding them in their transitions is profoundly in the best interests of our Nation and the American people, and yet we cannot respond satisfactorily because we are spending over $350 billion a year for debt service.

At a time when our economy is suffering from a long and persistent recession, we find ourselves incapable of providing real assistance—because we have spent our Nation into catastrophic debt.

We cannot go back and undo what we have already done, Mr. President. We have no real choice but to service the debt we have incurred, until we can pay it off. But we absolutely must halt it from growing further.

To the extent this was the objective of those who offered the Domenici-Rudman-Nunn amendment, I believe they have the correct general goal in mind.

But the amendment, and the logic behind it were flawed.

They were not flawed per se, Mr. President, just because they are addressing entitlement programs. But the amendment advocated and contemplated imposing artificial caps on entitlement programs which are not the cause of the tremendous growth in the cost of the entitlement portion of the budget. Worse yet, the amendment would have artificially constrained the ability of some of those programs to provide the minimal safety net for the most disadvantaged among us: child nutrition programs; foster care and adoption assistance; aid for the aged, blind, and disabled impoverished; food stamps for the lowest income 10 percent of our national population; and others.

Mr. President, the dramatic—frightening—increases in health care costs, which are primarily reflected in two entitlement programs, Medicare and Medicaid, are the chief culprits in the rapid growth of entitlement spending.

But the amendment treated Medicare and Medicaid—where far and away the greatest growth in expenditures is occurring—precisely the same as it treated such programs as foster care and adoption and child nutrition, where little growth is occurring.

So, Mr. President, regardless of the good intentions of the sponsors of this amendment, their amendment was fatally flawed. I am relieved they chose to withdraw it.

We must address the deficit problem, Mr. President. One component of our response must be to gain control over entitlement program growth. But it is absolutely essential that we do so fairly and effectively, and the Domenici-Rudman-Nunn amendment was neither.

As others have said previously, the single most important step we must take to control entitlement growth is to reform our health care and medical care financing systems. Despite repeated promises and claims, President Bush has yet to send legislation to do this to the Congress, and there is none in sight. While Presidential leadership on this issue is badly needed, Democrats in the Senate are prepared to begin this debate without him if he insists on absenting himself and shirking his responsibility in this respect. It is through this route that we can and should—fairly—gain control over health care costs and, thusly, over what is unquestionably the most significant contributor to entitlement growth.

We must get serious about the deficit. We must make tough choices. But our responsibility to this Nation does not stop there by any means. What we must do, we must do fairly. We must protect those who cannot protect themselves. And we surely must assure that the tough medicine we prescribe—and let there be no doubt about it, the only way to treat the deficit is with tough medicine—is designed to cure the illness and not just spread misery wantonly.

Let me go on to say, Mr. President, that I will oppose final passage of the budget resolution.

It is, sadly, just another business-as-usual budget at a time when circumstances in this world, in our nation, and in the Commonwealth of Massachusetts cry for something much more.

On amendments considered yesterday and the day before—real amendments that made real adjustments in dollar amounts, unlike the Domenici amendment—repeatedly a majority, primarily on the other side of the aisle, was unwilling to recognize the desperate need of our communities and cities, the grave need for investment in our future. The majority was unwilling to recognize the fact that our world has changed miraculously in the past 3 years and it is not only possible but necessary, while preserving a fully sufficient defense to ensure our national security, to reduce defense spending and apply the savings to deficit reduction or to pressing domestic needs.

As I said earlier in my remarks, I judge the deficit and debt situation to be critical. We are past the point of being able to just muddle along. We are now expropriating and cavalierly spending the savings of our grandchildren. This has got to stop. We are crying for leadership from a President who seems incapable of deciding what he believes, what he stands for, or what is important to the Nation.

This budget almost certainly will become the Congress' measure for budgetary action for 1993. I can only hope and struggle to assure that next January there will be an occupant in the White House who will provide courageous, realistic leadership to begin eliminating the deficit and facing up to our long-ignored national responsibilities. And, of course, I will struggle to have the Congress come to grips with the totality of this monumental problem whether or not the President provides leadership.

The chairman and members of the Budget Committee labored diligently, and in good faith, to produce this budget and bring it to the floor. They were forced to labor within the constraints of the so-called Andrews Air Force Base summit agreement, which was enacted into law last year. I opposed that agreement at the time. It has become even more out of touch with reality—and even less responsive to the real needs of this Nation—than it was then.

I sympathize with the committee. I sympathize with the conscientious and long-suffering chairman of the committee, the senior Senator from Tennessee [Mr. SASSER], who is managing this bill. His efforts are earnest, but the burdens he has been forced to carry are too great.

I cannot in good conscience, and will not, vote for this budget which falls so far short of any reasonable mark. I pro-

foundly hope for—and will diligently work toward—a budget for 1994 that does correctly identify and set about to meet the pressing needs of this Nation and its citizens.

Mr. DODD. Mr. President, the budget is an encapsulation of our Nation's vision of the future. I am afraid this year, stalemate is all the eye can see on the horizon.

On the one hand, our Nation has pressing needs. After 12 years of ignoring the homefront at the instigation of the Reagan and Bush administrations, we need to invest in America's future.

We need to invest, for example, in our Nation's crumbling cities. The unlimited potential of millions of Americans continues to be held hostage by the poverty, violence, and despair found throughout our Nation's urban areas. It is ludicrous to think we can compete internationally when the talents of these Americans go untapped.

We need to invest in education. We will certainly not be able to compete so long as high school graduates can't read a newspaper, write a grammatically correct sentence, or solve a basic algebra problem.

We need to invest in our children. One in five lives in poverty today in America, and that is completely unacceptable. We must give all children the opportunity to unlock their potential, unconstrained by economic deprivation.

We need to ensure that the American dream is attainable. If Americans can no longer afford to buy a home or send their kids to college, we are at risk of losing something that is unique about America.

But it is hard to invest in America when the cupboard is bare. The Federal Government is flat broke, and we cannot afford to pile more debt on the shoulders of our posterity.

Mr. President, the budget resolution before us today makes the best of a bad situation. It freezes most outlays for domestic discretionary spending at 1992 levels. It does achieve some deficit reduction through Government downsizing and through elimination of waste, fraud, and abuse.

On the defense side of the ledger, the budget resolution continues the spending reductions of the past 5 years. Between 1985 and 1992, defense expenditures in real dollars have declined by 25 percent, and the figure included in the resolution for 1993 is 5 percent below the level necessary to keep pace with inflation.

Mr. President, some proposed further cuts in next year's defense budget. I opposed those proposals, however, because I believed that further cuts would jeopardize our national security.

We must not kid ourselves into believing that everyone suddenly loves America now that the Soviet Union has fallen apart. With regional instability throughout the globe, and the continuing proliferation of nuclear weapons, the world is still a dangerous place.

Deeper cuts could also harm our defense industrial base. After past conflicts, we have all too often followed a feast-or-famine approach to our defense industrial base. In the future, it will be our technological advantages that give us a military advantage, and so shutting down critical industries would be unilateral disarmament of the worst sort.

We must also remember that we are in a recession. At such a time, it makes little sense to add to the problem by throwing thousands of defense workers and GIs onto the unemployment rolls.

For all of these reasons, cuts in the military budget below the level incorporated in the resolution would be unwise.

Mr. President, we would not be facing the current budget stalemate if we had more leadership from the other end of Pennsylvania Avenue. The President cannot avoid his share of responsibility for the deficit. The plain truth is that neither President Bush or his predecessor have once submitted a balanced budget to Congress.

They have talked a lot about gimmicks like line item vetoes, but when it really came time to make tough choices, they punted. They have continued to tell the American people they can have it all without paying for it. As Paul Tsongas might say, they have tried to play Santa Claus the whole year round.

And then, when it comes to addressing our pressing domestic needs, President Bush's only plan has been to use his veto plan. He vetoed the tax bill, which included almost all of what he wanted. He would have vetoed the anticrime bill, which was a tough law and order bill. Instead of leading by negotiating compromises that move our Nation forward, he chooses to nyet and nay-say and contribute to the stalemate.

Mr. President, I hope that next year when we consider a budget resolution on the Senate floor, we will see more leadership from the Executive branch, whether it is headed by a Democrat or a Republican. I hope the President will send us a balanced budget and work to make the tough choices that must be made. I hope the President will sit down with Congress and negotiate solutions to our Nation's domestic problems.

But again, there is certainly no leadership coming from downtown at the moment. And that makes passage of the budget resolution before us today more of an achievement than it otherwise would be. It makes the best of a bad situation, and I urge my colleagues to join with me in supporting its passage.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield back all time on the resolution.

Mr. DOMENICI. I yield back all time on the resolution.

CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 287, Calendar No. 435.

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

The House concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the United States Government for fiscal years 1993, 1994, 1995, 1996, and 1997.

Mr. SASSER. Mr. President, I move that all after the resolving clause be stricken, that the language of Senate Concurrent Resolution 106, as amended, be inserted in lieu thereof, and ask unanimous consent that all time on that motion be yielded back.

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

Mr. SASSER. 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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ADAMS (when his name was called). Mr. President, the Senator from Georgia [Mr. FOWLER] is absent but would vote "aye" if he were present. I would vote "no." I grant Senator FOWLER a live pair. I therefore withhold my vote.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. KERREY], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

On this vote, the Senator from Washington [Mr. ADAMS] is paired with the Senator from Georgia [Mr. FOWLER]. If present and voting, the Senator from Georgia would vote "aye" and the Senator from Washington would vote "nay."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP], would vote "no."

The result was announced—yeas 54, nays 35, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—54

Akaka	Ford	Murkowski
Baucus	Glenn	Packwood
Bentsen	Gore	Pell
Biden	Graham	Pryor
Bond	Grassley	Reid
Boren	Hatfield	Riegle
Breaux	Hollings	Robb
Bryan	Inouye	Rockefeller
Bumpers	Jeffords	Rudman
Burdick	Johnston	Sarbanes
Byrd	Kassebaum	Sasser
Chafee	Kennedy	Simpson
Cohen	Leahy	Specter
Daschle	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Mikulski	Thurmond
Domenici	Mitchell	Warner
Exon	Moynihan	Wofford

NAYS—35

Bingaman	Harkin	Metzenbaum
Brown	Hatch	Nickles
Burns	Heflin	Nunn
Coats	Helms	Pressler
Cochran	Kasten	Roth
Conrad	Kerry	Sanford
Craig	Kohl	Seymour
Cranston	Lautenberg	Shelby
D'Amato	Lugar	Simon
DeConcini	Mack	Smith
Durenberger	McCain	Wellstone
Gorton	McConnell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1 Adams, against

NOT VOTING—10

Bradley	Garn	Wallop
Danforth	Gramm	Wirth
Dixon	Kerrey	
Fowler	Lott	

So the motion was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, if the Republican manager is prepared to yield back all of his time, I will yield back all of my time.

Mr. SYMMS. We yield back all the time on this side.

Mr. SASSER. All the time has been yielded back, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 287), as amended was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate insist upon its amendments, that the Senate request a conference with the House, on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

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

The Chair will appoint the conferees at a later time.

Mr. SASSER. I thank the Chair.

MEASURE RETURNED TO THE CALENDAR

Mr. President, I ask unanimous consent that Senate Concurrent Resolution 106 be returned to the calendar.

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

COMMENDATION OF SENATORS

Mr. SASSER. Mr. President, I want to thank my colleagues for their assistance during the course of the pendency of this resolution, particularly the majority leader, Mr. MITCHELL, for his help and support; also the support given by the distinguished Senator from Maryland [Mr. SARBANES], at some very critical times during the course of the consideration; also the support and the counsel given by the distinguished President pro tempore during the pendency of this budget resolution here this afternoon.

COMMENDATION OF STAFF

I also want to express my appreciation to the majority staff of the U.S. Senate, the very able staff director, Mr. Larry Stein; Dr. John Callahan, deputy staff director of the Budget Committee; Bill Dauster, our general counsel; Kathy Deignan, who was extraordinarily helpful to us in a number of areas, one of our senior analysts; Randy DeValk, our senior analyst on military affairs; Chuck Marr, the chief economist of the Senate Budget Committee; and Sue Nelson.

Without their support, and their untiring efforts, Mr. President, we would have been unable to bring this resolution to a successful conclusion here this afternoon.

I yield the floor.

Mr. MITCHELL. Mr. President, I want to add to that list of persons the distinguished chairman of the Budget Committee, Senator SASSER, whose skill, perseverance, patience, and determination are more than anything responsible for the Senate having acted to complete action on the resolution today. I thank Senator SASSER very much, for it has been a very difficult period.

COMMENDATION OF SENATORS

Mr. BYRD. Mr. President, I want to add my compliments and my thanks to those that have been expressed by others with regard to the good work that has been done by the two managers of the budget resolution, Senator SASSER and Senator DOMENICI. These are two of the brightest Senators in this body. They are highly dedicated, very hard-working, and the product of which they have brought to fruition today is a demonstration of their skill and their devotion to duty.

We on the Appropriations Committee will, as soon as the conference is completed on the budget resolution, do our work as expeditiously as possible on the various appropriations bills.

Mr. President, I do not want to unduly hold the Senate but I see the two Senators are about to conduct some morning business. I will just impose on the Senate a couple of minutes.

A MEMORIAL

Mr. BYRD. Mr. President, one characteristic among the many that distinguish our species from others is Memory.

Not by instinct do we celebrate the Fourth of July, Christmas, Yom Kippur, or the other days of our cultural calendars.

No, we celebrate those days because of memories that we want to keep alive and because of memories that define who we are and who we want to be and become.

But Memory serves perhaps no greater role in our lives than as a means of renewing and revitalizing our relationship to those nearest to our hearts whom we have lost.

Anyone who has lost someone beloved knows the experience of which I speak.

A wife, a husband, a son, a daughter, a unique friend, an incomparable teacher or mentor, a close colleague—how blessed are the memories that we have of those whom we have loved and lost to the often incomprehensible destiny of which we all partake.

Ten years ago this weekend—April 12, 1982—I lost my grandson, Jon Michael Moore, in a tragic accident—an accident whose ultimate purpose I cannot fathom and an accident that cut into my heart more deeply than anything that had befallen me before or that has befallen me since.

Michael was only 17 at the time, and was preparing to set out onto the crest of life with more gifts and talents than most young men of that age are graced.

Then, incomprehensively, Michael's life was cut short.

Once merciful Numbness has lent its service to helping the mourner to bear the unbearable, Memory attends the bereft and, like a guardian angel, stands at hand forever.

Memory can be bittersweet, and tears oftentimes accompany even the brightest recollections of that one who is beyond our sight.

But, in time, memories can become more sweet than painful. And in moments clouded even by unbidden tears, we are moved to give thanks to have been privileged to know and to love—even but for a fraction of our time upon this earth—that one who has gone before us into Eternity to meet God.

So, Mr. President, I share the insights of my heart on the 10th anniversary of the passing of a young man whom Erma and I deeply admired and loved, and in whom we took grandparents' understandable pride—a pride in all that Jon Michael Moore had become in his brief 17 years and a pride in

the promise that Michael embodied for the future that was denied to us in his death.

And to those among us who have felt and endured such a loss in their own lives, I leave these words by William F. Floyd—words of which I believe Michael in his own real and youthful faith could proclaim:

My times are in Thy hand:
My God, I wish them there;
My life, my friends, my soul I leave
Entirely to Thy care.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I am sure that every Member of the Senate, on this sad anniversary, extends their deepest love, respect, admiration, and sympathy to our esteemed President pro tempore and wish him a peaceful two weeks while we are on vacation.

Mr. CRANSTON. Mr. President, I join in that expression of sentiment and sympathy and high regard for the President pro tempore of the Senate.

LAUDING THE REPUBLICAN STAFF

Mr. SYMMS. Mr. President, I want to pay my thanks to the fine Republican staff under the leadership of Bill Hoagland, and others, for their efforts to bring this Budget Committee forward, and especially to our distinguished ranking member, Senator DOMENICI.

We are often very unhappy with the results of what happens from the Budget Committee, but I say that the Budget Committee does stimulate some of the very best debate that we see in the Senate. I think Senator DOMENICI quite excelled himself and presented an excellent point of view on this side of the aisle, and I pass complements to all of my colleagues, including the chairman of the committee. I offer a special thanks to our fine Republican leader, Senator DOLE, for his efforts in the coordination to help the members of the committee accomplish this task.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

GOOD LUCK TO CINDY MANNUCCI

Mr. DOLE. Mr. President, I want to take a minute to say a few words about a departing staff member in the Republican Cloakroom. I am talking about Cindy Mannucci, a valued member of one of the hardest working groups on Capitol Hill. As one of the Cloakroom assistants, Cindy is one of the few people who really does know what is going on around here. She works long hours, keeps track of floor action—and inaction—advises Senators and staff on legislation and helps to wade through the mountain of bills, amendments and resolutions we are faced with each session.

Why she would want to give all that up to move to Florida with all that sun and sand, I do not know. But I guess joining her husband and beginning a new career with the Customs Service is a pretty good reason.

I know I speak for a lot of people when I say thanks, Cindy, for all your good work, for making our job easier and good luck to you as you start your new life.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that their now be a period for morning business with Senators permitted to speak therein.

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

CONFRONTING THE GLOBAL ECOLOGICAL CRISIS

Mr. GORE. Mr. President, throughout this week I have stood in this Chamber and spoken to what I firmly believe is the most serious problem our Nation and every nation must confront: A global ecological crisis more serious, with more devastating consequences than any other we have ever experienced in humankind's time on Earth.

Earlier this week, the entire Senate debated these issues, voting by an overwhelming and bipartisan margin of 87–11 on a resolution aimed at moving U.S. policy and especially President Bush to recognize the urgency of these issues, the importance of the upcoming Earth Summit in Rio de Janeiro, and the need to move forward on key international negotiations to stop global warming, the loss of forestland and the devastation of record numbers of living species.

It is impossible to state too strongly the importance of the Rio conference. It is equally impossible to protest too loudly the President's stubborn, shortsighted policy that is threatening to undermine this historic meeting. At every opportunity, President Bush and his representatives have thrown up the barricades and blocked progress. At every hint of agreement, the White House has found a reason to disagree.

As a result of the President's intransigence, principally because of U.S. opposition, none of the major negotiations has produced an agreement. There is no agreement on climate change. The biodiversity talks have broken down. The deforestation agreement has been so watered down that Canada, New Zealand, and others have said it is not even worth submitting to their ministers for approval. Agenda 21—which was to be a plan for actions in the 21st century—is unfinished. The only agreement the United States permitted can still be rejected—it is simply a chairman's draft, accepted as a working text and still subject to editing.

I do not today want to repeat my strong opposition to the President's policy. I have made that opposition absolutely clear this week and in many days and speeches that have come before, and I expect, in many days and speeches to follow. Instead, today I want to speak directly to the policies we should be adopting—at the Earth Summit, as a nation and, as a nation among nations.

We must take bold and unequivocal action: We must make the rescue of the environments the central organizing principle for civilization. Whether we realize it or not, we are now engaged in an epic battle to right the balance of our Earth, and the tide of this battle will turn only when the majority of people in the world become sufficiently aroused by a shared sense of urgent danger to join an all-out effort.

There is no doubt that with sufficient agreement on our goals, we can achieve the victory we are seeking. Although very difficult changes in established patterns of thought and action will be required, the task of restoring the natural balance of the Earth's ecological system is both within our capacity and desirable for other reasons—including our interest in social justice, democratic governments, and free market economics. Ultimately, a commitment to healing the environment represents a renewed dedication to what Jefferson believed were not merely American but universal, inalienable rights: life, liberty, and the pursuit of happiness.

Nowhere is that more clearly defined than in the debate around the Earth Summit where the concerns of the developing nations and the developed nations provide such contrast. In fact, we are working for the same goals: For a better quality of life; for a brighter future for our children, for a safe, clean and sustainable environment. There are steps we should be taking at the Earth Summit:

We must reach agreement on a strong and effective climate change convention that, at a minimum, calls for stabilization of carbon dioxide emissions at 1990 levels by the year 2000 and a mechanism to ensure that the parties to the convention will meet regularly to strengthen their commitments in light of new scientific developments—as the Montreal protocol on ozone-depleting chemicals has been strengthened with new scientific evidence.

In addition, in the atmosphere text of agenda 21 that also puts forward measures to address climate change, we need to support, rather than oppose as we have done to date, calls for increased energy efficiency and conservation and for increased reliance and renewable sources of energy.

The opportunity for a legally binding convention on forests has been missed, first, because the United States would not agree that U.S. forests also should

be protected and now, because the developing countries feel that a convention could threaten their sovereignty. At a minimum, we need to leave Rio with a strong statement of principles on forests that protects sovereign rights but nonetheless lays the groundwork for a binding convention that will ensure that our forests are protected and that, for those forests that will be developed, they are managed in a truly sustainable manner. If that is going to happen, then the agreement reached cannot simply call for tree plantations to be established, instead, we must preserve native species and ecosystems.

We need to establish a strong and effective mechanism to carry forward the agreements reached at the Earth summit. For example, I have suggested that the United Nations might consider establishing a stewardship council to deal with matters relating to the global environment, just as the Security Council now deals with matters of war and peace. Or, we could establish a tradition of annual environmental summit meetings, similar to the annual economic summits of today, which only rarely find time to consider the environment. Alternatively, an existing U.N. body, such as the U.N. Economic and Social Council could be charged with monitoring success in implementing agenda 21 and carrying forward the principles of the Earth charter. The important point is that we must make sure that we have a mechanism through which heads of government will remain committed to pursuing a path of sustainable economic development.

And finally, heads of nations must commit at the Earth summit to work to improve bilateral and multilateral overseas development practices to ensure that the projects that are funded are truly sustainable. One of the best ways to ensure that this is the case is to increase the transparency of lending practices so that local communities and nongovernmental groups are aware of and have the opportunity to comment on project proposals the United States has been a leader in this regard and it is important for us to achieve a commitment from other world leaders at the Earth summit so they also will call for opening and access in the lending process.

But we must look beyond the Earth summit. Adopting a central organizing principle—one agreed to voluntarily—means embarking on an all-out effort to use every policy and program, every law and institution, every treaty and alliance, every tactic and strategy, every plan and course of action—to use, in short, every means to halt the destruction of the environment and to preserve and nurture our ecological system.

What is needed is a plan—call it a global Marshall plan for the environment—that combines large-scale, long-term, carefully targeted financial aid to developing nations; massive efforts to design and then transfer to poor nations the new technologies needed for sustained economic progress, a worldwide program to stabilize world population and binding commitments by the industrial nations to accelerate their transition to an environmentally responsible pattern of life.

To work, however, any such effort will also require wealthy nations to make a transition that in some ways will be more wrenching than that of the Third World, simply because powerful established patterns will be disrupted. It must emphasize cooperation—in the different regions of the world and globally—while carefully respecting the integrity of individual nation states.

But with the original Marshall plan serving as both a model and an inspiration, we can now begin to chart a course of action. The world's effort to save the environment must be organized around strategic goals that simultaneously represent the most important changes and allow us to recognize, measure, and assess our progress toward making those changes. Each goal must be supported by a set of policies that will enable world civilization to reach it as quickly, efficiently, and justly as possible.

In my view, five strategic goals must direct and inform our efforts to save the global environment.

The first strategic goal should be the stabilizing of world population, with policies designed to create in every nation of the world the conditions necessary for the so-called demographic transition—the historical and well-documented change from a dynamic equilibrium of high birth rates and death rates to a stable equilibrium of low birth rates and death rates. This change has taken place in most of the industrial nations—which have low rates of infant mortality and high rates of literacy and education—and in virtually none of the developing nations—where the reverse is true.

The second strategic goal should be the rapid creation and development of environmentally appropriate technologies—especially in the fields of energy, transportation, agriculture, building construction, and manufacturing—capable of accommodating sustainable economic progress without the concurrent degradation of the environment. These new technologies must then be quickly transferred to all nations—especially those in the Third World, which should be allowed to pay for them by discharging the various obligations they incur as participants in the global Marshall plan.

I have proposed the worldwide development of a Strategic Environment Initiative [SEI] a program that would discourage and phase out older, inappropriate technologies and at the same time develop and disseminate a new generation of sophisticated and environmentally benign substitutes. As soon as possible the SEI should be the subject of intensive international discussions, first among the industrial nations and then between them and the developing world.

The third strategic goal should be a comprehensive and ubiquitous change in the economic rules of the road by which we measure the impact of our decisions on the environment. We must establish—by global agreement—a system of economic accounting that assigns appropriate values to the ecological consequences of both routine choices in the marketplace by individuals and companies and larger, macroeconomic choices by nations. For example, the definition of GNP should be changed to include environmental costs and benefits, and the definition of productivity should be changed to reflect calculations of environmental improvement or decline.

The fourth strategic goal should be the negotiation and approval of a new generation of international agreements that will embody the regulatory frameworks, specific prohibitions, enforcement mechanisms, cooperative planning, sharing arrangements, incentives, penalties, and mutual obligations necessary to make the overall plan a success. These agreements must be especially sensitive to the vast differences of capability and need between developed and undeveloped nations.

The fifth strategic goal should be the establishment of a cooperative plan for educating the world's citizens about our global environment—first by the establishment of a comprehensive program for researching and monitoring the changes now under way in the environment in a manner that involves the people of all nations, especially students; and second, through a massive effort to disseminate information about local, regional, and strategic threats to the environment. The ultimate goal of this effort would be to foster new patterns of thinking about the relations of civilization to the global environment.

Each of these goals is closely related to all the others, and all should be pursued simultaneously within the larger framework of the global Marshall plan. Finally, the plan should have as its more general, integrating goal, the establishment, especially in the developing world—of the social and political considerations most conducive to the emerging of sustainable societies—such as social justice—including equitable patterns of land ownership; a commitment to human rights; adequate nutrition, health care, and shelter; high literacy rates; and greater political freedom, participation, and accountability. Of course, all specific policies should be chosen as part of serving the central organizing of saving the global environment.

When considering a problem as large as the degradation of the global environment, it is easy to feel overwhelmed, utterly helpless to effect any change whatsoever. But we must resist that response because this crisis will be resolved only if individuals take some responsibility for it. By educating ourselves and others, by doing our part to minimize our use and waste of resources, by becoming more active politically and demanding change—in these ways and many others, each one of us can make a difference.

TRIBUTE TO ARTHUR ASHE

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Arthur Ashe.

Mr. President, Arthur Ashe and I have known each other since 1972. We have worked together in political campaigns and in the civil rights movement. I am greatly saddened by his recent revelation that he has contracted AIDS.

Mr. President, Arthur Ashe has been a role model for all Americans since he first rose to tennis fame in the mid-1960's. He is a former U.S. Open and Wimbledon champion. He has represented our country overseas in international tennis tournaments. He has truly been a champion both on the court and off the court. Since his retirement, he has dedicated his life to teaching the game of tennis and the game of life to poor youth all over the world.

Arthur Ashe has also been a leader in the civil rights movement. He was working for sanctions against South Africa long before the Congress finally took action. He successfully had South Africa banned from the 1970 Davis Cup because of its inhumane policy of apartheid. I know he must be encouraged by the recent developments in South Africa because he has worked so hard to free its black majority.

Mr. President, Arthur Ashe's revelation once again shows us that anyone can contract AIDS. Unfortunately, it takes a basketball or tennis star to bring this epidemic to the forefront of our consciousness. We need to show compassion for the victims of AIDS and unite in an effort to find a cure for this disease.

The National Institutes of Health are conducting intensive research on treatment and therapies for AIDS and the Ryan White Care Act is providing counseling and care to AIDS victims and their families. These programs are helping us prevent this epidemic from spiraling out of control. Now we need to put more resources into these programs, not less.

Mr. President, AIDS is tragically striking down people from all segments of our society. Young, old, male, female, black, white, and brown. We need to put our Nation's resources into fighting this epidemic before it claims more and more lives. Today, one in every 250 people has contracted the AIDS virus. As a result, people are dying all over this country. We need to pull together and find a cure for AIDS like we did with polio and tuberculosis. We need to show tolerance and respect for those who are victims of this deadly virus.

As a tribute to Arthur Ashe and those who are not as well-known, let's pull together as a nation and beat this tragic disease.

CONDOLENCES TO THE FAMILY OF A DISTINGUISHED FRIEND

Mr. BYRD. Mr. President, I thank our friend and colleague, the junior Senator from Wyoming, Senator SIMPSON, for the expeditious and sensitive fashion in which he brought to the Senate's attention yesterday the passing of one of my longtime friends and distinguished former colleagues, Senator Gale McGee from Wyoming.

Senator McGee and I were members of that extraordinary class of Senators elected in 1958.

That class included such men as Philip Hart from Michigan, Hugh Scott from Pennsylvania, Edmund Muskie from Maine, Eugene McCarthy from Minnesota, Jennings Randolph from West Virginia, Thomas Dodd from Connecticut, and other distinguished men, many of whom left a lasting mark on our history and have now also passed on to the farther shore.

I felt a particular kinship with Gale McGee. Senator McGee was 1 of only 5 nonlawyers among the 16 new Members elected to the Senate in 1958, and I had not yet won my own law degree at that juncture. Senator McGee had been an American history professor at the University of Wyoming and had cut his political teeth as a legislative assistant to Senator Joseph O'Mahoney.

Erma and I especially enjoyed our friendship with Senator McGee and his wife, Loraine. I know that I speak for Erma, as well as for all of our colleagues, in extending to Senator McGee's family our condolences on the death of this uniquely decent, levelheaded, brilliant, and patriotic man of whom all of the people of Wyoming can be justly proud.

CONGRATULATIONS TO THE DISTINGUISHED SENIOR SENATOR FROM THE OLD DOMINION

Mr. BYRD. Mr. President, I was gratified the day before yesterday that our friend and colleague, the distinguished Senior Senator from Virginia, JOHN WARNER, announced his decision to remain in the Senate.

Certainly, the mystique and romance of the Old Dominion would be sufficient to tantalize any citizen of that State into wanting to be her Governor. With such a magnificent heritage and tradition, one can understand the loyalty and love of men like George Washington, Thomas Jefferson, Robert E. Lee, and JOHN WARNER for the "Mother of Presidents."

I can further understand, then, the struggle that must have been Senator WARNER's in deciding not to become a candidate for Virginia's highest State office.

But I particularly commend Senator WARNER, not just as a friend and colleague, but as a patriot as well, for his decision to continue his service here in the Senate.

As Democrats and Republicans alike, we face momentous choices at this point in our history. I especially applaud Senator WARNER's choice because I believe that we need men of his broad public experience and perspective as we serve together in the Senate right now. For our purposes as Americans and as Senators representing neighboring States with multiple and countless common concerns and mutual interests, I congratulate Senator WARNER for his decision and I look forward to working many more years together in warm cooperation and friendship.

Ms. MIKULSKI. Mr. President, one of the sad duties of a U.S. Senator is to take to the floor and comment upon the life, and the passing, of distinguished constituents. Today I rise in sorrow to inform my colleagues that Carmen Turner, Under Secretary of the Smithsonian Institution and former general manager of the Washington Metropolitan Area Transit Authority [WMATA] passed away on Thursday.

Carmen Turner, a lifelong resident of Washington, DC, was not in the strictest sense a constituent of mine. But the outstanding transit system she leaves behind, which serves our Nation's Capital and its Maryland and Virginia suburbs so well, is a legacy that will benefit my constituents for generations to come.

Carmen Turner worked for Washington's Metro system from 1977 to 1990, the last 7 years as general manager. Perhaps the crowning achievement of her tenure at Metro was the passage in 1990 in this body and in the House of Representatives of the $1.3 billion authorization which will allow Metro to complete its entire 103-mile system. This important legislation will finally bring Metro service to those neighborhoods most dependent upon public transportation.

Toward the end of her career, Carmen chose to devote her energy and talents to the Smithsonian Institution, that great showcase of our Nation's history, culture, scholarship, and diversity. She oversaw the day-to-day operations of this gigantic museum enterprise, and guided it through a period of significant financial difficulties, but also of important growth and change.

Those who worked with Carmen, as I did, will never forget her spirit, her

dignity, her dedication to Metro and to this region, and her sense of humor. I was proud to consider her a colleague. She was a role model to professional women, and to the African-American community.

Mr. President, I truly admired Carmen Turner. Her passing is a great loss to all of us.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOX SCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $3,893,440,313,164.95, as of the close of business on Wednesday, April 8, 1992.

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

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day.

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?

HELEN CYNTHIA BROOKE'S FIRST 100 YEARS

Mr. HOLLINGS. Mr. President, on April 19, Helen Cynthia Brooke will celebrate her centennial birthday. Helen is well known to many in the Senate as one of Washington's grande dames and matriarchs, and as the mother of our former colleague from Massachusetts, Edward Brooke. Senator Brooke came to the Senate the same year I did, 1967. During Ed's two terms in this body, Helen very capably represented him on the Ladies of the Senate Red Cross. She was always proud and willing to share stories of her grandchildren and great grandchildren, and reminiscences of summers at Cape Cod.

Mr. President, Helen Brooke remains a proud member of the Ladies of the Senate, the Republican Club, and the Massachusetts Society. And she is a devoted member of St. Luke's Episcopal parish. I know that the entire Senate joins me in congratulating Helen on her 100th birthday. We all wish her the very best.

RTC FUNDING

Mr. DOLE. Mr. President, as Congress prepares to leave town for a 2-week recess, we are repeating our prior brilliant acts of procrastination by failing to act responsibly and fund the RTC.

While I was pleased that the Senate was able to take action on this important issue over 2 weeks ago, the House has been gridlocked in seemingly endless rounds of political posturing and showdowns. The end result is that while a few may score some cheap political points, the American taxpayer loses and depositors who are waiting for the Federal Government to honor its promise to insure their accounts are left hanging.

We all know that the RTC is everyone's favorite punching bag. On occasion, I have come to the floor and pointed out some of the mistakes of the agency like when the Kansas City regional office used taxpayer funds to buy original artwork or when checks were bounced in connection with the resolution of Home Federal Savings Association.

But the fact that one can always find something good to criticize—and certainly good politics encourages it—has nothing to do with the fact that Congress needs to fulfill its obligation to depositors to keep the RTC funded so that it can continue to do its very difficult job.

DELAY DOES NOT PAY

When Congress took a walk on the issue in the fall of 1990 until March 1991, and last winter, it cost American taxpayers another $400 to $500 million. And for what, Mr. President?

I certainly do not think our constituents would be satisfied with the explanation that it helped Members avoid a difficult vote for a few months.

The situation we are now facing is identical to that we faced last November and in the fall of 1990.

As of midnight on March 31, the RTC was cut off from funds. And without money, it cannot unload the public treasury of the many insolvent thrifts and their assets that simply add to the cost of the bailout. It is that simple. Without funding, no business gets transacted.

RTC President Albert Casey has said that a 3-month delay in resolutions would result in unrecoverable costs of approximately $200 million to $250 million, while 6 months of delay would result in unrecoverable costs of approximately $600 million to $900 million. This all translates into a daily cost of roughly $2.8 million.

That is $2.8 million that began 9 days ago, and will continue today, tomorrow, and the day after that, and the day after that until Congress does a reality check with the American people and steps up to the plate.

RTC IS DOING ITS JOB

Mr. President, it is also important to note that the RTC is completing the job it was established to do.

In fact, announcements were recently made that the RTC will be significantly down-scaling the size of its operation.

Since its establishment in August 1989 and through March 31, 1992, the RTC has taken over 690 thrifts, resolved 640 of these thrifts, and maintained control over the remaining 50 institutions in its conservatorship program. Through January 31, 1992, the RTC had disposed of roughly 66 percent of its over $375 billion inventory of failed thrift assets.

While one can always say there is room for improvement, it looks like a pretty respectable track record for an organization that did not even exist 32 months ago.

In addition, recognition should be made of the role that the RTC has played in assisting the Justice Department in prosecuting those savings and loan crooks who have ripped off the American public to the tune of billions of dollars. Through February 29, 1992, the Department of Justice had obtained 797 convictions, with 78 percent of the 628 individuals who have been sentenced receiving a jail term.

CONGRESS HAS AN OBLIGATION TO THE AMERICAN PEOPLE

Mr. President, today there are 50 thrifts in the RTC's conservatorship program awaiting disposition. Those institutions represent 2.3 million accounts holding $24 billion. The RTC tells me that in my State of Kansas, there are roughly 110,000 conservatorship accounts containing over $2 billion waiting for resolution.

I do not want to keep these depositors waiting any longer than is absolutely necessary, and that point in time occurred over 1 week ago.

The U.S. Government has an obligation to stand behind the Federal deposit insurance system it established.

Certainly, no one likes voting money to bail out the savings and loan debacle. It is not an easy vote. It does not make for great press releases.

But it is essential that funding action being taken for delay only adds to the already staggering costs of the bailout. And in that connection, the American people have only Congress to blame.

Since the House went home last night for the Easter recess without taking the responsible course of action, I shall do everything I can to ensure that the first matter of business when Congress returns is to work out its differences and to fund the RTC.

The President has recognized his obligation to depositors and to the American taxpayer on this issue. It is now time for Congress to do the same.

DEATH OF EINAR OTTESEN

Mr. MURKOWSKI. Mr. President, a lifelong resident and business leader of Wrangell, AK, Einar Ottesen, died February 22.

Mr. Ottesen came to Wrangell as an infant and helped the community grow as he grew.

For many years Mr. Ottesen was a cannery superintendent at the Far

West Cannery and also worked aboard fish tenders, as well. He operated a machine shop in Wrangell and later opened a retail grocery store in the early 1960's. He started a hardware store in 1970 and retired in 1978.

For 39 years he served on the board of National Bank of Alaska.

For over 75 years he contributed to the community in a thoughtful and generous manner. As one of the pioneer families of Wrangell, he was always involved in community activities as well as hunting and outdoor activities on the Stikine River. His three sons, Mike, Eric, and Chris and his wife of 52 years, Dorothy, continue his example of devotion and dedication to the community of Wrangell.

ANGER AND ERODING CONFIDENCE IN GOVERNMENT

Mr. LAUTENBERG. Mr. President, this is a time of great turbulence in the Nation's political life. The American people are unhappy with their political leaders and institutions. More than that, they are angry; they are angry at the men and women who serve in Government.

The reports of misuse of the House of Representatives bank and scandal at the House post office have crystallized and given shape to this anger and frustration.

If there is any silver lining to this very large black cloud, it is that these incidents have placed this problem in front of us and provide an opportunity to address them forthrightly.

Mr. President, I came into Government after a long career in the private sector. After devoting most of my life to starting and building a highly successful data processing firm in New Jersey employing over 20,000 persons, I wanted to make a contribution in another forum.

I chaired one of the largest charitable organizations in the world and helped lead several others. I made significant personal philanthropic donations to causes I thought were important to our future: cancer research, the environment, opportunity for disadvantaged kids. During my chairmanship of ADP, I also served pro bono as a commissioner of the Port Authority of New York and New Jersey and on the New Jersey Economic Development Authority.

But to really make my State and country a better place, there seemed no better way than to seek an elective office to serve where decisions are made that affect the direction of our country; that shape our future. I believed that my experience in the community, and in management and technology, could perhaps be of value in the U.S. Senate. I truly sought to serve the public interest by seeking office.

I do not claim to be unique in that respect. And yet, despite the best intentions of so many, something is seriously wrong.

At a time when the Nation is struggling with enormous challenges, little appears to get done. Our economy is in the longest recession since the Great Depression. There is almost unanimous agreement that our health care system needs a major overhaul and our educational system needs reform. The cold war has ended and we need to decide how to capitalize on that victory for the benefit of our people. We need to regain our economic competitiveness and world leadership. The list of challenges goes on.

Yet, Mr. President, while our Nation cries out for help, little appears to get done. We seem paralyzed, unable to move. Unable to make a difference.

Mr. President, it is critical to the Nation that we break this gridlock. The leadership of this Nation is not a game. It is serious business. With high stakes. We have to get beyond conflict and partisanship, and do something about the problems of this great country of ours.

Mr. President, at the same time we are frozen in a policy gridlock, our constituents have focused their attention on the various prerequisites—or perks—provided to Government officials.

When real problems go unsolved, when people are hurting, when anger is high, it is natural that scrutiny of public officials intensifies. And, as it has intensified, the public does not like what it sees. And I do not blame them.

Americans get angry when they see bureaucrats being driven around in chauffeured limousines. They are disgusted when they see Congressmen and Senators treated like some type of royalty. And they are outraged when they learn that Government leaders enjoy, for free, services that other Americans have to pay for; services that are unrelated to the exercise of their official duties. Understandably, it leaves the impression that Government leers are in office more to serve themselves than to serve the people they were elected to represent and work for.

These privileges or perks distance elected representatives from the people they are serving. They insulate officials from the day-to-day problems of ordinary Americans. And, perhaps because of this distancing, they can sap the ethic of public service that is so essential to Government. Certainly, they erode public confidence in Government, which is fatal to a democracy.

Mr. President, Americans are upset about perks for good reason. They're not just being swept up by a wave of sensationalistic news stories. They are concerned about perks because they're concerned about the state of our Government.

And, Mr. President, that is why it was way past time to examine the special perks available to Members of both the legislative and executive branches—and do away with them.

There is absolutely no reason in the world why Members of Congress should have their meals or haircuts subsidized. They should pay the full price, just like other American workers do. There is no reason why Deputy Secretaries need a chauffeured limousine to get to work. And there's absolutely no reason why the taxpayers should be paying outrageous sums for Cabinet members or the Vice President or the President's Chief of Staff to take personal trips on military jets at the taxpayer's expense.

Mr. President, we need to clean house and get rid of these unwarranted perks. Members of Congress should have to pay for all services that are not job-related, just like every other American does.

I personally do not use the Senate barber shop. I still go back to my birthplace of Paterson, NJ, to have Pete cut my hair, like he has for years. I do not use the Senate gym. I jog along the Potomac instead, when in Washington, and along the Hackensack River on the weekend. I do not often eat in the Senate dining room. I usually eat lunch at my desk, if I eat at all, and dinner on the fly, if we adjourn in time.

But, regardless of our personal habits, we should make a strong and clear statement that Members of Congress and employees of the executive branch should be stripped of perks. I certainly want to make my position clear: Members of Congress and the executive branch should pay a commercially fair rate for all services available to them which are unrelated to the discharge of their official duties.

This includes the Senate dining room, gym, barber shop, the Capitol doctor, who also treats visitors to our Nation's Capital, any health care services or prescriptions, and any other services unrelated to official business that may exist of which I am unaware.

We are here for one reason, and one reason only: To serve the public. And we need to remove any vestiges of privilege that obscure that fact or cause the public to doubt our integrity.

I am pleased that the Senate leadership of both parties has moved to address these issues. Last week, the Senate majority leader, Senator MITCHELL, and Senate minority leader, Senator DOLE, ordered a review of all Senate practices and operations. They pledged to discontinue any practice or method of operation that is unrelated to the discharge of our official responsibilities. They have already moved to address some of the unwarranted perks associated with the Senate dining room, gym, stationery store, and health services.

Mr. President, for a democracy to function, we must restore faith in our Government.

Other sources of cynicism by the public include honoraria, or the taking of

speaking fees from special interest groups, the state of campaign fundraising, and the Senate pay raise.

Mr. President, the pay raise for the Senate was, I believe, unjustified and untimely. I voted against it and am donating my pay raise to New Jersey charities.

Throughout my tenure in the Senate—from the start—in 1983—I refused to accept honoraria or speaking fees and have donated any such fees offered, when I speak to groups in New Jersey or Washington, to charities in New Jersey. When a Member of Congress accepts payments for speeches from special interest groups, there is at least an appearance of a conflict of interest and, at worst, a weakening of his or her independence. It's a real improvement that these fees are now banned.

Mr. President, at the time of my reelection in 1988, I pledged to the people of New Jersey that I would continue to keep their needs, their pain and their joy with me everyday. I was humbled by their approval and I restated that I would never breach their trust nor forget that I am here to serve them.

I have done that, to the best of my ability, everyday I have served. As I said earlier, I chose to leave a successful business career, at some personal sacrifice, because, as the son of poor immigrant parents, I wanted to give something back to my State and country, which offered me such opportunity. I still feel an intense sense of responsibility when I enter the Senate Chamber to vote, when I chair a committee hearing, draft a bill, or fight for New Jersey and its people.

It truly pains me that our people are so frustrated and angry, that they just want to kick the bums out and have lost faith in their Government. That is poison for a free people. Our great vibrant democracy has flourished for more than 200 years because the people trust their Government and participate fully in their own governance. More and more, they mistrust politicians and stay home, rather than voting. Mr. President, we must earn back their trust by cleaning up our act.

Mr. BAUCUS. Mr. President, before we adjourn for the Easter recess, I would like to take just a minute to inform my colleagues that when we return, the Environment and Public Works Committee will be marking up the reauthorization of the Resource Conservation and Recovery Act.

For the past year, my Subcommittee on Environmental Protection has been conducting a thorough examination of our solid waste problems. We held 11 hearings on various aspects of the issue, including recycling, waste reduction, interstate transport, and waste management planning, among others. The testimony we heard has given us a sound basis for modifications in the original bill Senator CHAFEE and I introduced last year.

The bill the committee will mark up will focus on three major issues. The centerpiece of it will create markets for recycling by asking larger companies to take responsibility for recovering and reusing some of the paper, glass, metal, and plastic products they sell.

This will create a market for recovered materials, which is the major missing link today in thousands of community recycling programs. It will also help share the burden with the cities and towns across the country which today bear the full burden of disposing of our mounting garbage piles.

Since we will never get ahead of our waste problem by focusing only on recycling and disposal, however, the bill will also encourage companies to think about how they can reduce the amount of waste they generate. I have seen lots of examples of how companies have cut waste and ended up with more efficient operations.

And the bill will propose a solution to the vexing problem of interstate shipment of solid waste. We will let the local communities, those most affected by landfills, to choose whether they want to accept waste from another State in their landfill. I have talked with many of the Senators on both sides of this issue and believe that the committee's bill will be a fair resolution of this very complex and emotional issue.

Finally, the bill will set standards for States to develop comprehensive waste planning and management plans.

Mr. President, I hope that after the committee reports this legislation, which I hope to be around April 29, Wednesday after we get back, my colleagues will closely examine it. I believe it will be a major boost to recycling efforts across the country and help resolve some of our most pressing solid waste problems.

I have discussed this bill with the majority leader, and it is my hope the Senate will consider it soon after it is reported from the committee.

I thank my colleagues.

FREEDOM OF CHOICE ACT

Mr. SPECTER. Mr. President, I am today adding my name to the cosponsors of the Freedom of Choice Act because I believe that it is important to move ahead with such legislation in light of the potential overruling of *Roe* v. *Wade* in the immediate future.

I had declined to sponsor this bill since its introduction on November 17, 1989, because I felt it was untimely. In light of the Supreme Court's decision to accelerate consideration of the constitutionality of the Pennsylvania Abortion Control Act and the Court's granting of argument to the Solicitor General, I think it is now important to try to move this legislation forward for consideration by the Congress. A growing list of cosponsors will lend support toward that end.

In joining as cosponsor, I note the Freedom of Choice Act goes beyond the decision of the Supreme Court in *Roe* v. *Wade* and does not have any of the limitations on abortion which have been imposed by some States and upheld by the U.S. Supreme Court. For example, Roe recognizes the State's "important and legitimate" interest in protecting the fetus after the first trimester.

This bill goes beyond Roe in that regard. The bill may be amended on that subject and other limitations on abortion may be added by amendments. It may be that there would be so many amendments as to make the bill not very meaningful. It may be that the preferable course, ultimately, will be to proceed with a constitutional amendment even though that would take longer.

In any event, it is my judgment that adding cosponsors to the Freedom of Choice Act would move such legislation forward to protect the principles of *Roe* v. *Wade*, which now appear to be in imminent jeopardy.

CARMEN TURNER: AN APPRECIATION

Mr. SASSER. Mr. President, it is with sadness that I note the passing yesterday of Mrs. Carmen Turner. At the time of her death, this remarkable individual was serving as undersecretary of the Smithsonian Institution, on the Board of Regents of which I have the honor to serve. For some years prior to that, Mrs. Turner served with distinction as the general manager of the Washington Metropolitan Area Transit Authority, overseeing one of its most significant periods of growth.

A longtime Washington resident, Mrs. Turner received her undergraduate degree from Howard University and a masters degree from the American University here. She was Deputy Director of Civil Rights for the Urban Mass Transit Administration, and then, Acting Director of Civil Rights for the U.S. Department of Transportation. In 1977, she joined the Washington Metro as its first assistant general manager for administration, and in July 1983 became its general manager, the chief executive position at Metro.

During Mrs. Turner's stewardship, the Washington Metrorail System expanded from 42 miles and 47 stations to 70 miles and 64 stations. Because Metro is reliant upon a capital funding agreement among eight different State and local government in the Washington Area, the coordination of its operations requires considerable skills of negotiation and leadership. Mrs. Turner met this challenge with energy success while overseeing an operating budget of over half a billion dollars and a work force of 8,500 people.

Due in no small part to Carmen Turner's efforts, the Washington Met-

rorail System has become the object of admiration and earned the nickname, "America's subway." The transit authority provides a million rail and bus trips every weekday and is invaluable not just to Federal and private workers, but to the 20 million people who visit our Nation's Capital each year. It is no surprise that the American Public Transit Association honored the Washington Metro Authority as the outstanding transit agency in North America in 1988.

One of Mrs. Turner's legacies is the Federal commitment to completion of the full 103-mile Metrorail System, authorized by Congress and planned in the 1960's. Two years ago I had the pleasure of inviting Mrs. Turner to testify before my Subcommittee on General Services, Federalism, and the District of Columbia. Her fervid advocacy of S. 612, the bill to extend the authority for Federal-State funding of the balance of the Metrorail System, impressed the subcommittee and contributed substantially to the signing of this legislation into law.

The regents, staffs, and all friends and admirers of the Smithsonian Institution appreciated Carmen Turner's wisdom and experience during her tenure there. We can only regret that we will not have the benefit of them in future years. On behalf of my colleagues, let me extend our heartfelt condolences to her husband, Mr. Frederick B. Turner, Jr., and to her two sons and grandchildren, but at the same time our deep appreciation for her distinguished service to the public and our Nation's Capital.

CARMEN TURNER

Mr. LAUTENBERG. Mr. President, I rise today to express by deep sorrow at the passing of Carmen Turner, the former general manager of the Washington Metropolitan Area Transit Authority. The Washington area has lost a beloved public servant.

As she was a native of my home State and very involved in transportation issues, I was fortunate to have the opportunity to work closely with this remarkable woman. Carmen Turner was a dynamic woman who was able to overcome racial prejudice during an era when African-Americans were forced to attend segregated schools. While Carmen was a student at Howard University, she married her classmate, Frederick Turner. They had two sons, Frederick and Douglas.

While working for her master's degree in public administration, Carmen joined the Department of Transportation's Urban Mass Transportation in 1974. A year after the Metrorail trains began running in 1977, she was offered a job as chief of administration. When Metro's general manager retired, Metro executives asked her to serve as acting general manager while they searched for a replacement. Carmen made the transition so smoothly that the executives offered her the job permanently. By doing so, she became the first black women to manage a major transit system in the United States.

During Carmen's tenure as general manager for the Metro, the system grew as a tourist attraction and became an example of what mass transit could become.

Mr. President, Carmen Turner was a respected and dedicated professional who was a role model for women and minorities. I am proud to have known her, and I extend my deepest sympathy to her family.

EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate go into executive session; that the Committee of Governmental Affairs be discharged from further consideration of the nomination of Alan Robert Swendiman to be general counsel of the Federal Labor Relations Authority; and that the Senate proceed to immediate consideration of the nomination.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the CONGRESSIONAL RECORD as if read; that the motion to reconsider be tabled; that the President be notified of the Senate's action.

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

The nomination, considered and confirmed, is as follows:

Alan Robert Swendiman, to be general counsel of the Federal Labor Relations Authority.

EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations reported today by the Committee on the Judiciary:

David Brock, to be a member of the Board of Directors of the State Justice Institute.

Carlos R. Garza, to be a member of the Board of Directors of the State Justice Institute.

Vivi L. Dilweg, to be a member of the Board of Directors of the State Justice Institute.

John R. Simpson, to be a Commissioner of the U.S. Parole Commission.

Sandra A. O'Connor, to be a member of the Board of Directors of the State Justice Institute.

George L. O'Connell, to be U.S. Attorney.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statement appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action, 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:

David Brock, to be a member of the Board of Directors of the State Justice Institute.

Carlos R. Garza, to be a member of the Board of Directors of the State Justice Institute.

Vivi L. Dilweg, to be a member of the Board of Directors of the State Justice Institute.

John R. Simpson, to be a Commissioner of the U.S. Parole Commission.

Sandra A. O'Connor, to be a member of the Board of Directors of the State Justice Institute.

George L. O'Connell, to be U.S. Attorney.

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

At 12:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagreed to the amendment of the Senate to the bill (H.R. 2507) entitled "An Act to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon, and that the following Members be the managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. BLILEY.

As additional conferees from the Committee on Education and Labor,

for consideration of section 1114 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. GAYDOS, and Mr. BALLENGER.

The message also announced that the House has also passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3665. An act to establish the Little River Canyon National Preserve in the State of Alabama; and

H.R. 4572. An act to direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 109. Concurrent resolution providing for a conditional recess or adjournment of the Senate from Friday, April 10, 1992, until Tuesday, April 28, 1992, and an adjournment of the House on the legislative day of Thursday, April 9, 1992, until Tuesday, April 28, 1992.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

S. 985. An act to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region;

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; and

H.R. 4449. An act to authorize jurisdiction receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

S.J. Res. Joint resolution to designate April 15, 1992 as "National Recycling Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second time, and referred as indicated:

H.R. 3665. An act to establish the Little River Canyon National Preserve in the State of Alabama; to the Committee on Energy And Natural Resources.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 10, 1992, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

S. 985. An act to assure the people of the Horn of Africa the right to food and other basic necessities of life and to promote peace and development in the region;

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes; and

S.J. Res. 246. Joint resolution to designate April 15, 1992 as "National Recycling Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

George L. O'Connell, of California, to be U.S. attorney for the Eastern District of California for a term of 4 years.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Sandra A. O'Connor, of Maryland, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992;

John R. Simpson, of Maryland, to be a Commissioner of the United States Parole Commission for the remainder of the term expiring November 1, 1997;

Vivi L. Dilwig, of Wisconsin, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994.

Carlos R. Garza, of Texas, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994; and

David Brock, of New Hampshire, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994.

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. PRESSLER:

S. 2613. A bill to prevent and deter auto theft; to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 2614. A bill to reform the Federal-State unemployment compensation system to provide greater opportunity for reemployment and fairness, and for other purposes; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2615. A bill to amend title XVIII of the Social Security Act to clarify that medically necessary procedures related to atrophic and weakened jaws are covered under such title, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2616. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of algal blooms off the coast of Maui, Hawaii, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2617. A bill to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes; to the Select Committee on Indian Affairs.

By Mr. SEYMOUR:

S. 2618. A bill to amend the Internal Revenue Service Code of 1986 to exempt vessels of 100 gross tons or less from the tax on transportation of persons by water; to the Committee on Finance.

By Mr. GLENN:

S. 2619. A bill to amend the Federal Property and Administrative Services Act of 1949 to enact provisions governing the negotiation and award of contracts under the multiple award schedule program of the General Services Administration; to the Committee on Governmental Affairs.

By Mr. KENNEDY:

S. 2620. A bill to amend title VII of the Public Health Service Act to correct a technical oversight in the Disadvantaged Minority Health Improvement Act of 1990 (Public Law 101-527) by making schools of osteopathic medicine eligible to participate in the Centers of Excellence program, and for other purposes; considered and passed.

S. 2621. A bill to improve the administrative provisions and make technical corrections in the National Community Service Act of 1990; to the Committee on Labor and Human Resources.

By Mr. ROBB:

S. 2622. A bill to establish an Office of Cambodian Genocide Investigation, to support efforts to bring to justice national Khmer Rouge leaders who committed crimes against humanity in Cambodia, and to exclude the national leadership of the Khmer Rouge from the United States; to the Committee on Foreign Relations.

By Mr. SASSER (for himself, Mr. GORE, and Mr. DURENBERGER):

S.J. Res. 293. A joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 287. A resolution to direct the Senate Legal Counsel to appear as amicus curiae

in the name of the Senate in United States ex rel. Barbara Burch v. Piqua Engineering, Inc; considered and agreed to.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. Res. 288. A resolution commemorating the new Oriole Park at Camden Yards; considered and agreed to.

By Mr. SYMMS (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BOND, Mr. BOREN, Mr. BREAUX, Mr. BROWN, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORTON, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WOFFORD):

S. Con. Res. 110. A concurrent resolution to authorize the construction of a monument on the United States Capitol Grounds to honor Thomas Paine; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 2613. A bill to prevent and deter auto theft; to the Committee on the Judiciary.

ANTI-CAR THEFT ACT OF 1992

Mr. PRESSLER. Mr. President, last year, over 1.6 million vehicles were reported stolen in the Nation, making car theft America's No. 1 personal property crime. Auto theft will affect 1 in 50 American families this year, at a cost of over $8 billion. In my home State of South Dakota, there were 696 auto thefts last year, resulting in property losses of over $2.7 million.

In response to this growing crime epidemic, I am joining the efforts initiated by Congressman CHARLES SCHUMER and Congressman JAMES SENSENBRENNER 2 weeks ago. Today, I am introducing the Anti-Car Theft Act of 1992. I believe this legislation would give America's law enforcement officials the tools needed to stem the increase in auto thefts.

Title I of this bill establishes a new Federal crime for a twisted innovation in car theft: armed carjacking. Nationwide, there has been a marked increase in instances in which criminals approach a driver in a car, and with gun or knife drawn, forcibly remove the driver, and steal the car. This bill would impose up to a 20-year jail sentence for armed carjacking. Furthermore, my legislation would double the penalties for all other auto theft crimes.

Title II of this bill addresses the problem of automobile title fraud. The bill creates a nationwide data base for the titling of motor vehicles. This data base will allow Federal, State, or local law enforcement officials, insurance carriers, and potential automobile purchasers the ability to access general title status information, odometer readings, and whether the individual automobile is a junked or salvaged vehicle. To accomplish this, the bill establishes reporting requirements for junkyards, salvage yards, and insurance companies.

I have personal experience with this problem. Last fall, I purchased a 1988 model year car at an auction. I later discovered that the entire front chassis of this car was put together with parts from a 1985 vehicle. Had this bill been law, prior to my purchase, both the auctioneer and I could have verified whether this vehicle was salvaged, junked, or made from parts stolen from another car.

In another warped innovation, some car thieves have created a multibillion-dollar industry through the resale of parts from stolen automobiles. Criminals take a stolen car to a chopshop that dismantles the major parts of the car in 10 minutes. The thieves then turn around and sell these parts for a value greater than that of the original whole vehicle. To put an end to this practice, title III of this bill requires that the car's vehicle identification number [VIN] be placed on all major parts of new automobiles.

The bill creates a national stolen auto parts data base that would include the VIN's of stolen automobiles and stolen parts. Car mechanics or auto parts dealers would be required to call a toll-free number to check the ID numbers of auto parts against the national data base of stolen vehicles and parts before installing or buying major auto parts. The bill establishes civil penalties for failure to label parts, keep required records, provide certification of compliance, and for failure to supply to the national data base the required information if selling, transferring, or installing a major part.

Another method criminals use to profit from auto theft is the export of stolen vehicles for sale overseas. Auto thieves simply hide the stolen car in a container being shipped abroad. To address this problem, the bill establishes random Customs Service inspections of automobiles being exported. It further requires exporters to notify Customs officials of the VIN's of used automobiles 72 hours before the export of the vehicles.

Mr. President, we need the Anti-Car Theft Act of 1992 to help our local law enforcement officials rollback the growing wave of auto theft. I ask unanimous consent that this legislation be printed in the RECORD following my remarks.

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

S. 2613

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Car Theft Act of 1992".

TITLE I—TOUGHER LAW ENFORCEMENT AGAINST AUTO THEFT

Subtitle A—Enhanced Penalties for Auto Theft

SEC. 101. FEDERAL PENALTIES FOR ROBBERIES OF AUTOS.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2119. Motor Vehicles

"Whoever, by force and violence, or by intimidation, takes a motor vehicle from the person or presence of another, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor Vehicles.".

SEC. 102. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 20 years".

SEC. 103. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, are amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 104. RICO PREDICATES.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting "section 511 (relating to altering or removing motor vehicle identification numbers), section 553 (relating to the export or import of stolen motor vehicles)" after "473 (relating to counterfeiting)".

Subtitle B—Targeted Law Enforcement

SEC. 111. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance shall make grants to Anti-Car Theft Committees submitting applications in compliance with the requirements of this subtitle.

SEC. 112. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a chief executive of an Anti-Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—Such application shall include the following:

(1) A statement that the applicant Anti-Car Theft Committee is either a State agency, an agency of a unit of local government, or a nonprofit entity organized pursuant to specific authorizing legislation by a State or a unit of local government;

(2) A statement that the applicant Anti-Car Theft Committee is or will be financed

in part by a tax or fee on motor vehicles registered by the State or possessed within the State, and that such tax or fee is not less than $1 per vehicle.

(3) A statement that the resources of the applicant Anti-Car Theft Committee will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs.

(4) A description of the budget for the applicant Anti-Car Theft Committee for the fiscal year for which a grant is sought.

SEC. 113. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the total funds available under this subtitle that is equal to the proportion of the number of motor vehicles registered in such State to the total number of motor vehicles registered in the United States.

(b) GRANT AMOUNTS.—If one Anti-Car Theft Committee within a State submits an application in compliance with section 112, the Director shall award to such Anti-Car Theft Committee a grant equal to the total amount of funds allocated to such State under this section. In no case shall the Anti-Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti-Car Theft Committee.

(c) MULTIPLE COMMITTEES.—If two or more Anti-Car Theft Committees within a State submit applications in compliance with section 112, the Director shall award to such Anti-Car Theft Committees grants that in sum are equal to the total amount of funds allocated to such State under this section. In no case shall an Anti-Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti-Car Theft Committee. The Director shall allocate funds among two or more Anti-Car Theft Committees with a State according to the proportion of the preaward budget of each Anti-Car Theft Committee to the total preaward budget for all grant recipient Anti-Car Theft Committees within such State.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 to carry out this subtitle for each of the fiscal years 1993, 1994, and 1995.

TITLE II—AUTOMOBILE TITLE FRAUD

SEC. 201. AUTOMOBILE TITLE FRAUD.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 7A—AUTOMOBILE TITLE FRAUD

"Sec.
"120. Definitions.
"121. National motor vehicle information system.
"122. State participation in the national motor vehicle information system.
"123. Reporting.
"124. Enforcement provisions.

"§ 120. Definitions

"For purposes of this chapter:

"(1) The term 'certificate of title' means a document issued by a State evidencing ownership of a motor vehicle.

"(2) The term 'insurance carrier' means an individual, corporation, or other entity which is engaged in the business of underwriting motor vehicle theft insurance.

"(3) The term 'junk vehicle' means any vehicle which is incapable of operation on roads or highways and which has no value except as a source of parts or scrap. The term 'junk vehicle' includes any vehicle component part which bears a vehicle identification number.

"(4) The term 'junk yard' means any individual, corporation, or other entity which is engaged in the business of acquiring junk vehicles for resale, either in their entirety or as spare parts, or for rebuilding or restoration, or for crushing.

"(5) The term 'operator' means the person or entity designated as the operator in any contract or agreement executed pursuant to section 121(b)(2) or if no such contract or agreement is executed, the Attorney General.

"(6) The term 'participating State' means a State which elects to participate in the information system pursuant to section 122.

"(7) The term 'salvage vehicle' means any vehicle which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the cost of repairing the vehicle for legal operation on roads or highways exceeds the fair market value of the vehicle immediately prior to the occurrence causing its damage.

"(8) The term 'salvage yard' means any individual, corporation, or other entity which is engaged in the business of acquiring salvage vehicles for resale, either in their entirety or as spare parts, or for rebuilding or restoration, or for crushing.

"§ 121. National motor vehicle information system

(a) REGULATIONS AND REVIEW.—Not later than March 1, 1993, the Attorney General, in cooperation with the States shall—

"(1) conduct a review of information systems pertaining to the titling of motor vehicles and utilized by 1 or more States or by a third party which represents the interests of States for the purpose of determining whether any of such systems could be used to carry out this section, and

"(2) promulgate regulations for the establishment under subsection (b) of an information system which will serve as a clearinghouse for information pertaining to the titling of motor vehicles if the Attorney General deems such regulations appropriate or necessary to the establishment of such system.

"(b) INFORMATION SYSTEM.—

"(1) ESTABLISHMENT.—Not later than 6 months following the promulgation of regulations under subsection (a)(2), and in no case later than September 1, 1993, the Attorney General, in cooperation with the States, shall establish an information system which will serve as an information system for information pertaining to the titling of motor vehicles.

"(2) OPERATION.—The Attorney General may authorize the operation of the information system established under paragraph (1) through an agreement with a State or States or by designating, after consultation with the States, a third party which represents the interests of the States to operate the information system.

"(3) FEES.—Operation of the information system shall be paid for by a system of user fees. The amount of fees collected and retained by the operator pursuant to this paragraph in any fiscal year, not including fees collected by the operator and passed on to a State or other entity providing information to the operator, shall not exceed the costs of operating the information system in such fiscal year.

"(c) MINIMUM FUNCTIONAL CAPABILITIES.—The information system established under subsection (b)(1) shall, at a minimum, enable a user of the system to determine—

"(1) the validity and status of a document purporting to be a certification of title,

"(2) whether a motor vehicle bearing a known vehicle identification number is titled in a particular State,

"(3) whether a motor vehicle known to be titled in a particular State is a junk vehicle or a salvage vehicle,

"(4) for a motor vehicle known to be titled in a particular State, the odometer reading of such vehicle on the date its certificate of title was issued, and

"(5) whether a motor vehicle bearing a known vehicle identification number has been reported as a junk vehicle or a salvage vehicle pursuant to section 123.

"(d) AVAILABILITY OF INFORMATION.—

"(1) TO STATE.—Upon request of a participating State, the operator shall provide to such State information available through the information system pertaining to any motor vehicle.

"(2) TO LAW ENFORCEMENT.—Upon request of a Federal, State, or local law enforcement official, the operator shall provide to such official information available through the information system pertaining to a particular motor vehicle, salvage yard, or junk yard.

"(3) TO PROSPECTIVE PURCHASERS.—Upon request of a prospective purchaser of a motor vehicle, including an entity that is in the business of purchasing used motor vehicles, the operator shall provide to such prospective purchaser information available through the information system pertaining to such motor vehicle.

"(4) TO INSURANCE CARRIERS.—Upon request of a prospective insurer of a motor vehicle, the operator shall provide to such prospective insurer information available through the information system pertaining to such motor vehicle.

"(5) PRIVACY.—Notwithstanding any provision of paragraphs (1) through (4), the operator shall not release an individual's address or social security number to users of the information system.

"(e) FUNDING.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out this section.

"§ 122. State participation in the national motor vehicle information system

"(a) ELECTION.—

"(1) STATE PARTICIPATION.—A State may, by written notice to the operator, elect to participate in the information system established pursuant to section 121.

"(2) DENIAL OF ACCESS.—The Director of the Federal Bureau of Investigation shall have the authority to deny access to the National Crime Information Center system to any State failing to participate in the information system pursuant to paragraph (1).

"(b) TITLE VERIFICATION REQUIREMENTS.—Each participating State must agree to perform an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased a motor vehicle from an individual or entity in another State. Such instant title verification check shall consist of—

"(1) communicating to the operator the vehicle identification number of the vehicle for which the certificate of title is sought, the name of the State which issued the most re-

cent certificate of title pertaining to the vehicle, and the name of the individual or entity to whom such certificate was issued; and

"(2) affording the operator an opportunity to communicate to the participating State the results of a search of the information.

"§ 123. Reporting

"(a) OPERATORS OF JUNK OR SALVAGE YARD.—

"(1) MONTHLY REPORT.—Any person or entity in the business of operating an automobile junk yard or automobile salvage yard shall file a monthly report with the operator. Such report shall contain an inventory of all junk vehicles or salvage vehicles obtained by the junk yard or salvage yard during the preceding month. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and a statement of whether the vehicle was crushed.

"(2) CONSTRUCTION.—Paragraph (1) shall not apply to persons or entities that are required by State law to report the acquisition of junk vehicles or salvage vehicles to State or local authorities.

"(b) INSURANCE CARRIERS.—Any person or entity engaged in business as an insurance carrier shall file a monthly report with the operator. Such report shall contain an inventory of all vehicles which such carrier has, during the preceding month, obtained possession of and determined to be junk vehicles. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and the owner of the vehicle at the time of the filing of the report.

"§ 124. Enforcement provisions

"(a) CIVIL PENALTY.—Whoever violates section 123 may be assessed a civil penalty of not to exceed $1,000 for each violation.

"(b) ASSESSMENT AND COLLECTION.—Any such penalty shall be assessed by the Attorney General and collected in a civil action brought by the Attorney General of the United States. Any such penalty may be compromised by the Attorney General. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.

"(c) DEDUCTION OF PENALTY FROM AMOUNTS OWED BY UNITED STATES.—The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of such title is amended by inserting after the item relating to chapter 7 the following:

"7A. Automobile title fraud ..... 120.".

TITLE III—ILLICIT TRAFFICKING IN STOLEN AUTO PARTS

SEC. 301. STOLEN AUTO PARTS.

(a) IN GENERAL.—Part I of title 18, United States Code, as amended by title II, is further amended by inserting after chapter 7A the following:

"CHAPTER 7B—ILLICIT TRAFFICKING IN STOLEN AUTO PARTS

"Sec.
"130. Definitions.
"131. Theft prevention standard.
"132. Cost limitation.
"133. Determination of compliance of manufacturer.
"134. National stolen auto part information system.
"135. Prohibited acts.
"136. Enforcement provisions.
"137. Confidentiality of information.
"138. Judicial review.
"139. Coordination with State and local law.
"140. 3-year and 5-year studies regarding motor vehicle theft.

"§ 130. Definitions

"For purposes of this chapter—

"(1) The term 'first purchaser' means first purchaser for purposes other than resale.

"(2) The term 'major part' of an automobile means—

"(A) the engine;

"(B) the transmission;

"(C) each door allowing entrance or egress to the passenger compartment;

"(D) the hood;

"(E) the grille;

"(F) each bumper;

"(G) each front fender;

"(H) the deck lid, tailgate, or hatchback (whichever is present);

"(I) rear quarter panels;

"(J) the trunk floor pan;

"(K) the frame or, in the case of a unitized body, the supporting structure which serves as the frame;

"(L) each window; and

"(M) any other part of an automobile which the Attorney General, by rule, determines is comparable in design or function to any of the parts listed in subparagraphs (A) through (L).

"(3) The term 'major replacement part' of an automobile means any major part—

"(A) which is not installed in or on an automobile at the time of its delivery to the first purchaser, and

"(B) the equitable or legal title to which has not been transferred to any first purchaser.

"(4) The term 'automobile' has the meaning given such term in section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)).

"(5) The term 'vehicle theft prevention standard' means a minimum performance standard for the identification of—

"(A) major parts of new motor vehicles, and

"(B) major replacement parts,

by inscribing or affixing numbers or symbols to such parts.

"§ 131. Theft prevention standard

"(a) IN GENERAL.—The Attorney General shall by rule promulgate, in accordance with this section, a vehicle theft prevention standard which conforms to the requirements of this chapter and which applies with respect to major parts and major replacement parts for automobiles. The standard under this subsection shall be practicable and shall provide relevant objective criteria.

"(b) TIMING.—

"(1) PROPOSED STANDARD.—Not later than 3 months after the date of the enactment of this chapter, the Attorney General shall prescribe and publish a proposed vehicle theft prevention standard.

"(2) FINAL STANDARD.—As soon as practicable after the 30th day following the publication of the proposed standard under paragraph (1), but not later than 6 months after such date of enactment, the Attorney General shall promulgate a final rule establishing such a standard.

"(3) EXTENSION.—The Attorney General may, for good cause, extend the 3-month and 6-month periods under paragraphs (1) and (2) if the Attorney General publishes the reasons therefor. Either such period may not, in the aggregate, be extended by more than 5 months.

"(4) EFFECTIVE DATE.—Such standard shall take effect not earlier than 6 months after the date such final rule is prescribed, except that the Attorney General may prescribe an earlier effective date if the Attorney General—

"(A) finds, for good cause shown, that the earlier date is in the public interest, and

"(B) publishes the reasons for such finding.

"(5) APPLICATION.—The standard may apply only with respect to—

"(A) major parts which are installed by the motor vehicle manufacturer in any automobile which has a model year designation later than the calendar year in which such standard takes effect, and

"(B) major replacement parts manufactured after such standard takes effect.

"(c) REQUIREMENTS.—

"(1) ENGINES AND TRANSMISSIONS.—In the case of engines and transmissions installed by the motor vehicle manufacturer, the standard under subsection (a) shall require that each such engine or transmission be permanently stamped with the vehicle identification number of the vehicle of which the engine or transmission is a part.

"(2) MAJOR PARTS.—In the case of major parts other than engines and transmissions, the standard under subsection (a) shall require that each such major part has affixed to it a label that—

"(A) bears the vehicle identification number of the automobile in characters at least 2.5 millimeters tall;

"(B) is highly resistant to counterfeiting, either through the use of retroreflective technology or through the use of a technology providing a level of security equivalent to that provided by retroreflective technology;

"(C) cannot be removed in one piece from the part to which it is affixed;

"(D) if removed from the part to which it is affixed, leaves on that part a permanent mark; and

"(E) is not commercially available.

"(3) REPLACEMENT PARTS.—In the case of major replacement parts, the standard under this section may not require—

"(A) identification of any part which is not designed as a replacement for a major part required to be identified under such standard, and

"(B) the inscribing or affixing of any identification other than a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

"(d) CONSTRUCTION.—Nothing in this chapter shall be construed to grant authority to require any person to keep records or make reports, except as expressly provided in sections 133(a) and 140.

"§ 132. Cost limitation

"(a) COST LIMITATION.—The standard under section 131(a) may not—

"(1) impose costs upon any manufacturer of motor vehicles to comply with such standard in excess of $15 per motor vehicle, or

"(2) impose costs upon any manufacturer of major replacement parts to comply with such standard in excess of such reasonable lesser amount per major replacement part as the Attorney General specifies in such standard.

"(b) COSTS.—The cost of identifying engines and transmissions shall not be taken into account in calculating a manufacturer's costs under subsection (a) of this section.

"(c) PRICE INDEX.—

"(1) CERTIFICATION.—At the beginning of each calendar year commencing on or after January 1, 1993, as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Attorney General and publish in the Federal Register the percentage difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Effective for model years beginning in such calendar year, the amounts specified under subsections (a)(1) and (2) shall be adjusted by such percentage difference.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) The term 'base period' means calendar year 1992.

"(B) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"§ 133. Determination of compliance of manufacturer

"(a) REQUIREMENTS.—Every manufacturer of any motor vehicle any part of which is subject to the standard under section 132(a), and any manufacturer of major replacement parts subject to such standard, shall—

"(1) establish and maintain such records, make such reports, and provide such items and information as the Attorney General may reasonably require to enable the Attorney General to determine whether such manufacturer has acted or is acting in compliance with this chapter and such standard, and

"(2) upon request of an officer or employee duly designated by the Attorney General, permit such officer or employee to inspect—

"(A) vehicles and major parts which are subject to such standard, and

"(B) appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this chapter and such standard.

Such manufacturer shall make available all such items and information in accordance with such reasonable rules as the Attorney General may prescribe.

"(b) INSPECTIONS.—For purposes of enforcing this chapter, officers or employees duly designated by the Attorney General, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may enter and inspect any facility in which motor vehicles containing major parts subject to such standard, or major replacement parts subject to such standard, are manufactured, held for introduction into interstate commerce, or are held for sale after such introduction. Each such inspection shall be conducted at reasonable times and in a reasonable manner and shall be commenced and completed with reasonable promptness.

"(c) CERTIFICATION.—

"(1) SPECIFICATION.—Every manufacturer of a motor vehicle subject to the standard promulgated under section 131(a), and every manufacturer of any major replacement part subject to such standard, shall furnish at the time of delivery of such vehicle or part a certification that such vehicle or replacement part conforms to the applicable standard under such section. Such certification shall accompany such vehicle or replacement part until delivery to the first purchaser. The Attorney General may issue rules prescribing the manner and form of such certification.

"(2) APPLICATION.—Paragraph (1) shall not apply to any motor vehicle or major replacement part—

"(A) which is intended solely for export,

"(B) which is so labeled or tagged on the vehicle or replacement part itself and on the outside of the container, if any, until exported, and

"(C) which is exported.

"(d) NOTICE.—If a manufacturer obtains knowledge that (1) the identification applied, to conform to the standard under section 131, to any major part installed by the manufacturer in a motor vehicle during its assembly, or to any major replacement part manufactured by the manufacturer, contains an error, and (2) such motor vehicle or major replacement part has been distributed in interstate commerce, the manufacturer shall furnish notification of such error to the Attorney General.

"§ 134. National stolen auto part information system

"(a) AGREEMENT FOR OPERATION OF INFORMATION SYSTEM.—Not later than January 1, 1993, the Attorney General shall enter into an agreement for the operation of an information system containing the identification numbers of stolen motor vehicles and stolen motor vehicle parts. Such agreement shall designate an individual or entity as the operator of such system for the purposes of this section and section 135.

"(b) MINIMUM INFORMATION.—The information system under subsection (a) shall, at a minimum, include the following information pertaining to each motor vehicle reported to a law enforcement authority as stolen and not recovered:

"(1) The vehicle identification number of such vehicle.

"(2) The make and model year of such vehicle.

"(3) The date on which the vehicle was reported as stolen.

"(4) The location of the law enforcement authority that received the reports of the vehicle's theft.

"(5) If the vehicle at the time of its theft contained parts bearing identification numbers different from the vehicle identification number of the stolen vehicle, such identification numbers.

"(c) AVAILABILITY OF INFORMATION.—Upon request by a merchant dealing in automobile parts or an individual or enterprise engaged in the business of repairing automobiles, or by an insurance carrier whose business involves payment for repair of insured vehicles, the operator shall immediately provide such merchant, individual, entity, or insurance carrier with a determination as to whether the information system contains a record of a vehicle or a vehicle part bearing a particular vehicle identification number having been reported stolen.

"(d) RECORDKEEPING.—The agreement under subsection (a) shall specify that the operator will keep records of all inquiries for use by law enforcement officials, including prosecutors, in enforcing section 135(c).

"(e) COLLECTION OF FEES.—The agreement under subsection (a) may provide for a fee system for use of the information system. If the agreement does so provide, it shall also provide that the amount of fees collected in any fiscal year may not exceed the costs of operating the information system in such fiscal year.

"(f) FUNDING.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1992 and 1993 to carry out this section.

"§ 135. Prohibited acts

"(a) IN GENERAL.—No person shall—

"(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States—

"(A) any motor vehicle subject to the standard under section 131(a), or

"(B) any major replacement part subject to such standard,

which is manufactured on or after the date the standard under section 131(a) takes effect under this chapter for such vehicle or major replacement part unless it is in conformity with such standard;

"(2) fail to comply with any rule prescribed by the Attorney General under this chapter;

"(3) fail to keep specified records or refuse access to or copying of records, or fail to make reports or provide items or information, or fail or refuse to permit entry or inspection, as required by this chapter; or

"(4) fail to—

"(A) furnish certification required by section 133(c), or

"(B) issue a certification required by section 133(c) if such person knows, or in the exercise of due care has reason to know, that such certification is false or misleading in a material respect.

"(b) APPLICATION.—Subsection (a)(1) shall not apply to any person who establishes that such person did not have reason to know in the exercise of due care that the vehicle or major replacement part is not in conformity with an applicable theft prevention standard.

"(c) PARTS.—No person shall sell, transfer, or install a major part marked with an identification number without—

"(1) first making a request of the operator pursuant to section 134(c) and determining that such major part has not been reported as stolen; and

"(2) providing the transferee with a written certificate bearing a description of such major part and the identification number affixed to such major part.

"(d) APPLICATION.—Subsection (c)(1) shall not apply to a person who is the manufacturer of the major part, who has purchased the major part directly from the manufacturer, or who has been informed by an insurance carrier that the major part has not been reported as stolen.

"§ 136. Enforcement provisions

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—Whoever violates section 135(a) may be assessed a civil penalty of not to exceed $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable motor vehicle theft prevention standard shall constitute only a single violation.

"(2) PARTS.—Whoever violates section 135(c) may be assessed a civil penalty not to exceed $1,000 for the first such violation or $25,000 for each subsequent violation.

"(3) ACTION ON PENALTY.—Any penalty under this subsection shall be assessed by the Attorney General and collected in a civil action brought by the Attorney General. Any such civil penalty may be compromised by the Attorney General. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.

"(4) DEDUCTION.—The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

"(5) AMOUNT.—The maximum civil penalty shall not exceed $250,000 for any related series of violations.

"(b) CRIMINAL PENALTIES.—Whoever, having been previously assessed a penalty under subsection (a), violates section 135(c) shall be fined under this chapter or imprisoned not more than 3 years, or both.

"(c) ACTIONS.—

"(1) INJUNCTIONS.—Upon petition by the Attorney General on behalf of the United States, the United States district courts shall have jurisdiction for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of section 135(a) or 135(c) or to restrain the sale, offer for sale, the introduction or delivery for introduction in interstate commerce, or the importation into the United States, of—

"(A) any automobile containing a major part, or

"(B) any major replacement part, which is subject to the standard under section 131(a) and is determined, before the sale of such vehicle or such major replacement part to a first purchaser, not to conform to such standard. Whenever practicable, the Attorney General shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present such person's views, and except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

"(2) CRIMINAL CONTEMPT.—In any proceeding for criminal contempt for violation of an injunction or restraining order issued under paragraph (1), which violation also constitutes a violation of section 135(a) or 135(c), trial shall be by the court, or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(3) VENUE.—Actions under paragraph (1) and under subsection (a) may be brought in the district wherein any act or transaction constituting the violation occurred or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district in which the defendant is an inhabitant or wherever the defendant may be found.

"(4) SUBPOENAS.—In any actions brought under paragraph (1) and under subsection (1) and under subsection (a), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

"§ 137. Confidentiality of information

"All information reported to, or otherwise obtained by, the Attorney General or the Attorney General's representative under this chapter which contains or relates to a trade secret or other matter referred to in section 1905 or in section 552(b)(4) of title 5, United States Code, shall be considered confidential for the purpose of the applicable section of this chapter, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Attorney General or any officer or employee under the Attorney General's control from any committee of the Congress.

"§ 138. Judicial review

"Any person who may be adversely affected by any provision of any standard or other rule under this chapter may obtain judicial review of such standard or rule in accordance with section 504 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004). Nothing in this section shall preclude the availability to any person of other remedies provided by law in the case of any standard, rule, or other action under this chapter.

"§ 139. Coordination with State and local law

"Whenever a vehicle theft prevention standard established under section 131(a) is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle, or major replacement part, any vehicle theft prevention standard which is not identical to such vehicle theft prevention standard.".

(b) CLERICAL AMENDMENT.—The table of chapters for such title (as amended by section 201(a)) is further amended by inserting after the item relating to chapter 7A the following:

"7B. Illicit trafficking in stolen auto parts ..... 120.".

SEC. 2. STUDIES REGARDING MOTOR VEHICLE THEFT.

(a) 3 YEAR STUDY.—

(1) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3).

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) data on the number of trucks, multipurpose passenger vehicles, and motorcycles, stolen and recovered annually, compiled by model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

(B) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles, stolen annually are dismantled to recover parts or are exported;

(C) a description of the market for such stolen parts;

(D) information concerning the premiums charged by insurers of comprehensive insurance coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in such premiums charged because any such motor vehicle is a likely candidate for theft; and

(E) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles or parts; or (v) benefits which exceed the costs of such identification.

(3) RECOMMENDATION.—The report under paragraph (1) shall recommend to Congress whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by statute.

(b) 5 YEAR STUDY.—

(1) REPORT.—Not later than 5 years after the promulgation of the standard required by section 131(a) of title 18, United States Code, the Attorney General shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3). The report shall—

(A) cover a period of at least 4 years subsequent to the promulgation of the standard required by chapter 7B of title 18, United States Code, and

(B) reflect any information, as appropriate, from the report under subsection (a) updated from the time of such report.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) information about the methods and procedures used by public and private entities for collecting, compiling, and disseminating information concerning the theft and recovery of motor vehicles, including classes thereof, and about the reliability, accuracy, and timeliness of such information, and how such information can be improved;

(B) data on the number of motor vehicles stolen and recovered annually, compiled by the class of vehicle, model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

(C) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;

(D) a description of the market for such stolen parts;

(E) information concerning the costs to manufacturers, as well as to purchasers of passenger motor vehicles, in complying with the standard promulgated under chapter 7B of title 18, United States Code, as well as the identification of the beneficial impacts of the standard and the monetary value of any such impacts, and the extent to which such monetary value is greater than the costs;

(F) information concerning the experience of Federal, State, and local officials in making arrests and successfully prosecuting persons for violations of sections 511, 552, and 2321 of title 18, United States Code, in preventing or reducing the number, and rate of, thefts of motor vehicles that are dismantled for parts subject to chapter 7B of title 18, United States Code, and in preventing or reducing the availability of used parts that are stolen from motor vehicles subject to such chapter;

(G) information concerning the premiums charged by insurers of comprehensive insurance coverage of motor vehicles subject to chapter 7B of title 18, United States Code, including any increase in such premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which such insurers have reduced for the benefit of consumers such premiums as a result of such chapter or have foregone premium increases as a result of such chapter;

(H) information concerning the adequacy and effectiveness of Federal and State laws aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;

(I) an assessment of whether the identification of parts of other classes of motor vehicles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles, parts, or components; or (v) benefits which exceed the costs of such identification; and

(J) other pertinent and reliable information available to the Attorney General concerning the impact, including the beneficial impact of sections 511, 553, and 2321 of title 18, United States Code, on law enforcement, consumers, and manufacturers.

(3) RECOMMENDATIONS.—The report submitted under paragraph (1) to the Congress shall include recommendations for (A) continuing

the standard established by chapter 7B of title 18, United States Code, without change, (B) modifying such chapter to cover more or fewer lines of passenger motor vehicles, (C) modifying such chapter to cover other classes of motor vehicles, or (D) terminating the standard for all future motor vehicles. The report may include, as appropriate, legislative and administrative recommendations.

(c) BASES FOR REPORTS.—

(1) CONTENT.—The reports under subsections (a)(1) and (b)(1) shall each be based on (A) information provided by the Federal Bureau of Investigation, (B) experience obtained in the implementation, administration, and enforcement of chapter 7B of title 18, United States Code, (C) experience gained by the Government under sections 511, 553, and 2321 of title 18, United States Code, and (D) any other reliable and relevant information available to the Attorney General.

(2) CONSULTATION.—In preparing each such report, the Attorney General shall consult with State and local law enforcement officials, as appropriate.

(3) REVIEW AND COMMENT.—At least 90 days before submitting each such report to Congress, the Attorney General shall publish the proposed report for public review and for an opportunity for written comment of at least 45 days. The Attorney General shall consider such comments in preparing the final report and shall include a summary of such comments with the final report.

TITLE IV—EXPORT OF STOLEN VEHICLES

SEC. 401. RANDOM CUSTOMS INSPECTIONS FOR STOLEN MOTOR VEHICLES BEING EXPORTED.

Part VI of title IV of the Tariff Act of 1930 is amended by inserting after section 646 the following:

"SEC. 646A. RANDOM CUSTOMS INSPECTIONS FOR STOLEN MOTOR VEHICLES BEING EXPORTED.

"The Commissioner of Customs shall direct customs officers to conduct at random inspections of motor vehicles, and of shipping containers that contain motor vehicles that are being exported, for purposes of determining whether such vehicles were stolen.

"SEC. 646B. EXPORT REPORTING REQUIREMENT.

"The Commissioner of Customs shall require all persons or entities exporting used self-propelled vehicles by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such vehicle and proof of ownership of such vehicle. The requirement of this section applies to vehicles exported for personal use.".

SEC. 402. PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM.

The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that contain motor vehicles leaving the country for the purpose of determining whether such vehicles are stolen.

SEC. 403. DEFINITION OF RACKETEERING ACTIVITY TO INCLUDE EXPORT OR IMPORT OF STOLEN AUTOMOBILES.

Subparagraph (B) of section 1961(1) is amended by inserting "section 553 (relating to the export or import of stolen automobiles)" after "473 (relating to counterfeiting)".

By Mr. WOFFORD:

S. 2614. A bill to reform the Federal-State unemployment compensation system to provide greater opportunity for reemployment and fairness, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION, REEMPLOYMENT, AND FAIRNESS ACT

Mr. WOFFORD. Mr. President, today I'm introducing the Unemployment Compensation, Reemployment and Fairness Act of 1992.

Before coming to the Senate almost a year ago, I served as Pennsylvania's secretary of labor and industry for 4½ years. One of my responsibilities was to administer our State's unemployment compensation program. So I'm well aware of its strengths and weaknesses from the ground up.

It's an important program, a complex program, a program which I believe can be improved and strengthened. That's the purpose of the legislation I'm offering today.

In time of recession and economic hardship, the Federal-State Unemployment Compensation Program is essential to maintaining the well-being of millions of American families, but it's a system under real stress.

Back in 1935 when Franklin Roosevelt and the Congress together created our present Unemployment Compensation System, he wanted a program that would be flexible—a program that would reflect and adjust to changing employer and worker needs and economic circumstances. That's the idea behind this effort to continue and improve on Roosevelt's experiment in Federal-State cooperation and innovation.

Based on experience, and in close consultation with the Pennsylvania department of labor and industry under my successor TOM FOLEY and our Governor, Robert Casey, I've developed a series of ideas for strengthening the assistance to workers, providing procedural fairness for employers, and bolstering the fiscal integrity of the overall system. Let me be specific:

First, improvements in worker reemployment. The problems of today's continuing high unemployment challenge American business, workers and governments to strengthen their cooperative efforts. This bill will:

Enhance employer and worker cooperation and job retention, by encouraging States to voluntarily implement short-time compensation programs;

Expand economic opportunities by allowing States to pay benefits to those who are seeking to start their own business under a State approved self-employment plan; and

Require States to review the reemployment prospects of workers soon after they have lost their jobs so that they can receive necessary services and training before they exhaust their benefits.

Second, improvements in employer fairness. Neither the Social Security Act nor the Federal unemployment tax act now guarantees employers the right to State administrative hearing on disputes involving unemployment taxes. This bill will require States to provide for such a hearing;

Third, budget treatment of unemployment trust fund. Mr. President, I've pressed the point repeatedly since my very first days in this body that we should use the taxes employers have already paid into the unemployment trust fund for their intended purpose. It was a scandal that the President for months refused to sign legislation extending unemployment compensation during the depths of this recession. A scandal that the President took so long to come to agreement with the Congress, as he finally did late last autumn.

We should not have to raise new revenues in the middle of a recession to fund emergency benefits when funds for that exact purpose are already available. My bill will:

Remove the unemployment trust fund from the Federal budget at the beginning of the 1993 fiscal year. This will ensure these funds will in fact be treated as a trust—and be available as they were intended, for unemployed workers and families.

In conclusion, Mr. President, our primary goal in government should be action that builds our Nation's economic vitality and creates jobs for all Americans. We should always keep our eyes on that prize.

But one of the things we must do when our economy is stagnant, when millions of workers lose their jobs, and families are in danger of losing their homes, their health and their quality of life, is to have an effective unemployment compensation system. A system that gives people the support they need to stay in the economic mainstream, to have effective retraining and to find new jobs as quickly as possible.

I'm committed to that kind of unemployment compensation system. That's why I have offered this bill to improve the reemployment prospects for working Americans, provide fair treatment to employers, and ensure that unemployment benefits will be available to workers and their families when they need them most.

Over the coming months I intend to discuss other ideas on employment security. I ask my colleagues to help advance this discussion by cosponsoring this legislation.

In June 1934, President Roosevelt told Congress that "Among our objectives, I place the security of men, women, and children of the Nation's first." We should still work to achieve that objective. This legislation will help us do it.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2614

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 "Unemployment Compensation, Reemployment, and Fairness Act of 1992".

TITLE I—SHORT-TIME COMPENSATION PROGRAMS

SEC. 101. STATES ALLOWED TO ADOPT SHORT-TIME COMPENSATION PROGRAMS.

(a) PURPOSE.—The purpose of this title is to encourage States to adopt short-time compensation programs.

(b) GENERAL RULE.—Nothing in section 3304(a) of the Internal Revenue Code of 1986 or any other provision of law shall be construed to preclude the adoption and implementation of a short-time compensation program for eligible employees as part of the unemployment compensation law of any State.

(c) BENEFITS TREATED AS COMPENSATION FOR PARTIAL UNEMPLOYMENT.—For purposes of Federal law, benefits payable under a short-time compensation program shall be treated as unemployment compensation payable for partial unemployment.

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) SHORT-TIME COMPENSATION PROGRAM.—The term "short-time compensation program" means a program under which—

(A) any eligible employee is eligible for unemployment compensation;

(B) the amount of unemployment compensation payable to such eligible employee for any week is a pro rata portion of the unemployment compensation which would be payable to the employee if such eligible employee were totally unemployed;

(C) the number of weeks for which compensation is payable is the same as if such eligible employee were totally unemployed;

(D) while collecting short-time compensation benefits, such eligible employee is not required to—

(i) meet the availability for work or work search test requirements, or

(ii) apply for or accept work with any other employer,

but is required to be available for such employee's normal workweek;

(E) short-time compensation is charged to an employer of such eligible employee in a manner consistent with the State unemployment compensation law;

(F) such eligible employee may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency; and

(G) in determining the amount of weekly short-time compensation, States may exclude the amount of wages earned by an eligible employee from an employer other than the employer under whose qualified plan the employee qualifies for such compensation.

(2) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an employee the number of hours in whose workweek has been reduced by at least 10 percent pursuant to a qualified employer plan.

(3) QUALIFIED EMPLOYER PLAN.—The term "qualified employer plan" means a plan of an employer (or an employer's association which is party to a collective bargaining agreement) under which there is a reduction in the number of hours worked by employees in lieu of imposing temporary layoffs if—

(A) the plan is approved by the State agency;

(B) the employer or the employer's association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 percent of the employees in the unit or units to which the plan applies and which would have resulted in an equivalent reduction of work hours;

(C) during the 4 months prior to the approval or annual review of such plan the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 percent;

(D) the employer continues to provide health benefits and retirement benefits under a defined benefit pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) to any employee whose workweek is reduced under such plan as though such employee's workweek had not been reduced; and

(E) in the case of employees represented by an exclusive bargaining representative, such representative has consented to the plan.

The State agency shall review at least annually any qualified employer plan which is in effect to assure that such plan continues to meet the requirements of this paragraph and of any applicable State law.

(4) STATE AGENCY.—The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment compensation program in such State.

(5) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

SEC. 103. RESPONSIBILITIES OF SECRETARY OF LABOR.

(a) ASSISTANCE IN IMPLEMENTING PROGRAMS.—

(1) IN GENERAL.—In order to assist States in establishing and implementing short-time compensation programs, the Secretary of Labor (hereafter in this section referred to as the "Secretary") shall—

(A) develop model legislative language which may be used by States in developing and enacting short-time compensation programs,

(B) propose revisions to existing legislation that may be necessary to implement such programs, and

(C) provide technical assistance and guidance to States in developing, enacting, and implementing such programs.

(2) TIMETABLE.—The Secretary shall develop the model legislative language described in paragraph (1) not later than January 1, 1993.

(b) REPORT.—Not later than January 1, 1995, the Secretary shall submit to the Congress a report on the implementation of this title. Such report shall include—

(1) an evaluation of short-time compensation programs,

(2) a comparison between the administrative costs of such programs and the administrative costs of regular unemployment compensation programs, and

(3) such recommendations as the Secretary may deem advisable.

TITLE II—UNEMPLOYMENT REFORMS

SEC. 201. INDIVIDUALS IN SELF-EMPLOYMENT PROGRAMS.

(a) IN GENERAL.—Section 3304(a)(8) of the Internal Revenue Code of 1986 (relating to requirements) is amended by striking "compensation" and inserting "(A) compensation", by striking the semicolon and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(B) if the State elects to participate, compensation shall not be denied or reduced to any individual for any week because such individual is participating in a qualified self-employment program (as defined in section 3306(t)) with the approval of the State agency (or because of the application, to any such week in such program, of State law provisions relating to availability for work, active search for work, or refusal to accept work);".

(b) DEFINITION.—Section 3306 of such Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) QUALIFIED SELF-EMPLOYMENT PROGRAM.—For purposes of this chapter, the term 'qualified self-employment program' means a program which—

"(1) meets the requirements established by the Secretary of Labor, including requirements for State agencies to determine what constitutes a good prospect for successful, permanent self-employment,

"(2) is approved by the State agency, and

"(3) provides training for individuals attempting to become self-employed."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for weeks beginning on or after January 1, 1993.

SEC. 202. EARLY REEMPLOYMENT REVIEW OF UNEMPLOYED WORKERS.

(a) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end thereof the following new subsection:

"(j)(1) The State agency charged with the administration of the State law—

"(A) shall, not later than the last day of the 5th week for which compensation is payable in an unemployed individual's benefit year, provide an early review of the individual's reemployment prospects, to the extent the State agency determines effectively,

"(B) shall, to the extent the State agency determines effective, provide reemployment review information to other State employment and training program staff, including staff of State job services and service delivery areas (as described in section 101 of the Job Training Partnership Act),

"(C) shall, to the extent the State agency determines effective, provide job search and placement services, counseling, testing, occupational and labor market information, assessment, and referral to employers,

"(D) shall provide technical and training program staff to assist with reemployment services,

"(E) shall provide followup evaluation and assistance to individuals participating in reemployment activities, and

"(F) may provide reemployment reviews and, to the extent the State agency determines effective, reemployment services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures.

"(2) The Secretary of Labor shall prescribe such regulations as are necessary to carry out the provisions of this subsection, including regulations—

"(A) to carry out the provisions of subparagraphs (A) and (B) of paragraph (1),

"(B) to determine whether an individual should be considered temporarily or permanently laid off, and

"(C) to assist States in examining the use of computer technology to achieve the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 203. HEARINGS FOR EMPLOYERS.

(a) IN GENERAL.—Section 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(3)) is amended by inserting "and for all taxpayers with respect to liability to make contributions, and to pay amounts, under the unemployment compensation law of the State" before the semicolon.

(b) REGULATIONS.—The Secretary of Labor may prescribe such regulations as the Secretary deems necessary to carry out the amendment made by subsection (a) to section 303(a)(3) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

TITLE III—BUDGET TREATMENT OF TRUST FUND

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 904 of the Social Security Act (42 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"BUDGETARY TREATMENT OF UNEMPLOYMENT TRUST FUND

"(h) Notwithstanding any other provision of law, the receipts and disbursements of the Unemployment Trust Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President; or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for any fiscal year."

(b) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—

(1) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after the item relating to the Southwestern Power Administration the following new item:

"State unemployment insurance and employment services operations account (16-0179-0-1-999);".

(2) Subsection (i) of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby repealed.

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

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2615. A bill to amend title XVIII of the Social Security Act to clarify that medically necessary procedures related to atrophic and weakened jaws are covered under such title, and for other purposes; to the Committee on Finance.

CLARIFICATION OF DENTAL EXCLUSIONARY ACT

• Mr. LEVIN. Mr. President, today I am introducing, along with Senator RIEGLE, legislation which provides the necessary clarification of the Dental Exclusionary Act that medically necessary jaw reconstruction surgery is a covered service under the Medicare Program.

The Health Care Financing Administration [HCFA] has been denying claims for this surgery, citing the Dental Exclusionary Act which excludes services in connection with care or treatment of teeth or structures directly supporting teeth. HCFA has maintained its position despite the findings of a 1986 HCFA physicians panel that the jaw reconstructive surgical procedure is not dental and that the primary reason for performing the surgery is to relieve pain.

Jaw reconstruction is a one-time, surgical procedure conducted to the jaw bone and not the teeth. In fact, the teeth and supporting structure have deteriorated before the underlying jaw bone becomes atrophied. This medically necessary surgery will prevent the malnutrition and starvation that are associated with this deteriorating illness. It will enhance the quality of life for those seniors who suffer severe depression because of their inability to provide their own nourishment.

Mr. President, Congress never intended for this surgical procedure to be subject to the exclusion. Our proposal would clarify this interpretation. It would establish that oral and maxillofacial surgery be a covered service under the Medicare Program. The costs of this procedure would be offset by the reduction in other health care costs for the aged, as restoring the proper function of the jaw and the ability to chew will reduce illness and prevent hospitalization. In order to ensure that these Medicare covered procedures not be used for dental or cosmetic purposes, our proposal provides that the medical condition requiring surgical attention is a matter of medical necessity. Specifically, the legislation provides for Medicare coverage of—

* * * Surgical and prosthodontic procedures following oral cancer * * * jaw reconstruction performed with respect to an individual suffering from generalized atrophy (as evidenced by loss of maxillary or mandibular basal bone) or nerve dehiscence, or localized weakness of the jaw muscle or bone caused by tumor, trauma, infection, systemic disease, or congenital abnormality (as supported by specific x-ray or laboratory evidence or by a clinical examination).

We have sought an administrative remedy in this matter. However, HCFA has not been responsive to the appeals to provide uniform coverage of this humane, lifesaving surgical procedure. Therefore, legislative action is necessary. Mr. President, this proposal merits the immediate attention of the Senate. 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. 2615

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

SECTION 1. COVERAGE OF MEDICALLY NECESSARY PROCEDURES RELATED TO ATROPHIC AND WEAKENED JAWS.

(a) IN GENERAL.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (12), by striking "where" and inserting "subject to the last sentence of this subsection, where"; and

(2) by adding at the end the following new sentence:

"Paragraph (12) shall not be construed to exclude payment under this title for those surgical and prosthodontic procedures following oral cancer, further including jaw reconstruction performed with respect to an individual suffering from generalized atrophy (as evidenced by loss of maxillary or mandibular basal bone) or nerve dehiscence, or localized weakness of the jaw muscles or bone caused by tumor, trauma, infection, systemic disease, or congenital abnormality (as supported by specific x-ray or laboratory evidence or by a clinical examination)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.•

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2616. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of algal blooms off the coast of Maui, HI, and for other purposes; to the Committee on Environment and Public Works.

STUDY OF ALGAL BLOOMS OFF THE COAST OF MAUI, HI

• Mr. INOUYE. Mr. President, I am introducing legislation today with Senator AKAKA, which will enable the Environmental Protection Agency to establish a grant program to investigate the unexplained occurrence of algal blooms off the northwestern coast of Maui, Hawaii.

Twice since 1989, portions of Hawaii's most treasured coastal areas have been plagued with massive algal blooms. Although the specific causes of the algal blooms are uncertain, algal growth is proportionally stimulated by the injection of treated waste water and concentrations of chemicals such as fertilizers and insecticides which enter the ocean through fresh water runoff.

Mr. President, I feel it is my duty to act in an efficient and timely manner to ensure that the affected coastal areas do not suffer further environmental damage. Already, coral reefs which have been exposed to the algal blooms have died; this is an occurrence that holds far-reaching effects for fish and other wildlife who depend on the reefs for survival.

In addition to solving the specific problem of the algal blooms, it is my sincere hope that this legislation will encourage the State of Hawaii to research alternative methods of managing the presence of chemicals in waste water effluent and fresh water runoff.

I am confident that this pledge of support for an inquiry into the causes

of the algal blooms will complement the efforts of the State of Hawaii to eradicate this environmental hazard. My endeavor to obtain funding for this important legislation has been buttressed by my understanding that the State of Hawaii has already pledged substantial funding to coincide with the Federal effort on its behalf. Our immediate action and additional assistance are crucial if we are to halt the further deterioration of the affected coastal areas.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2616

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 the following:

(1) Twice since 1989, the northwestern coast of Maui, Hawaii, has been plagued with massive blooms of the green alga, *Cladorphora servicea*, and blooms of the red alga, *Hypnea musciformis*, have also occurred in the area and in the Kihei area.

(2) The algal blooms have destroyed corals and other reef0building organisms, and have washed up on beaches and severely impeded the recreational use of affected coastal areas.

(3) The algal blooms are particularly detrimental to the natural ecological balance of the near-shore reef environment.

(4) Although the specific causes of the algal blooms are uncertain, algal growth is stimulated in a proportional manner by concentrations of chemicals such as fertilizers and insecticides, which enter the ocean through freshwater runoff.

(5) The Department of Health of the State of Hawaii has indicated that the department does not have the resources at this time to determine the cause of the algal blooms.

(6) Extensive research will be required to determine the factors that contribute to algal growth.

(7) Potential sources of nutrients that may contribute to algal growth include the near-shore disposal of sewage in injection wells from the Lahaina Wastewater Treatment Plant, surface runoff from agricultural lands and urban resort areas, and subsurface point sources in such areas.

(8) The long-term environmental impacts of the algal blooms are unknown,but in the short term, reefs exposed to the algal are being destroyed and the deterioration of the coral has detrimental effects on fish and other wildlife that depend on the reefs for survival.

(9) The algal blooms are generating negative economic impacts as well as negative biological impacts, as additional reports indicate that the algae is decreasing the intake of fish caught by local fishermen in the affected marine waters.

(10) The Maui Algae Task Force is comprised of community environmental activists and has been assembled to address the problem of algal blooms.

(11) The Maui Algae Task Force hopes to work in cooperation with the Department of Health of the State of Hawaii and the Environmental Protection Agency to identify and eradicate the causes of the algal blooms.

SEC. 2. STUDY.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") shall conduct a study to determine the causes of recent legal algal blooms off the northwestern coast of Maui, Hawaii, and to research alternatives for the improved management of chemicals present in wastewater treatment and fresh water runoff.

(b) STUDY REQUIREMENTS.—In carrying out the study under this section, the Administrator shall—

(1) survey and monitor—

(A) seaweed populations and animals for which the seaweed is a food source;

(B) surface water runoff sediments in the study area;

(C) inputs into the study area from subsurface point sources, including any such inputs from the Lahaina wastewater treatment plant; and

(2) in addition, study the responses of—

"(A) the seaweed populations to different concentrations of nutrients; and

"(B) the animals (for which the seaweed is a food source) to pesticides and other biological toxins.

(c) EQUIPMENT, GRANTS.—

(1) ACQUISITION OF EQUIPMENT.—In carrying out the study under this section, the Administrator is authorized to acquire such monitoring and testing equipment as is necessary.

(2) GRANTS.—In carrying out the study under this section, the Administrator is authorized to establish a grant program to provide grants to eligible entities that submit approved applications to the Administrator. The following entities may submit an application to conduct study activities under this section:

(A) the Department of Health of the State of Hawaii.

(B) The Maui Algae Task Force.

(C) Appropriate Federal, State, or county departments or agencies.

(D) Any other entity that the Administrator determines to be appropriate.

(d) DEMONSTRATION PROJECTS.—In carrying out the study under this section, the Administrator is authorized to establish demonstration projects to identify and implement best management practices for the control of nonpoint source pollution from erosion and agricultural runoff.

(e) REPORTS.—

(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Congress a report that includes interim results of the study conducted under this section, and such recommendations as the Administrator determines to be appropriate.

(2) FINAL REPORT.—Not later than January 31, 1995, the Administrator shall submit to the Congress a final report that summarizes the results of the study conducted under this section and includes such recommendations as the Administrator determines to be appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1993 and 1994, there are authorized to be appropriated $500,000 to the Environmental Protection Agency to carry out this section.•

By Mr. BINGAMAN:

S. 2617. A bill to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes; to the Select Committee on Indian Affairs.

MAINTENANCE OF CERTAIN DAMS BY THE BUREAU OF INDIAN AFFAIRS

• Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which addresses critical safety issues at a number of dams located on American Indian lands within the State of New Mexico. Many of these dams have problems with the integrity of dam structures, increasing seepage, and accelerated bank erosion. These problems could lead to a failure of the dam and the loss of lives and property on several Indian reservations throughout the State.

A dam safety program on Department of the Interior lands was originally mandated by a secretarial order in February 1980. This order established and assigned responsibilities for agencies within the Department to carry out a program of dam safety inspections, using Bureau of Reclamation classification standards, and further mandated that the agencies take whatever measures were necessary to prevent dam failures which threatened the loss of life or property. Despite this, the BIA had no program or administrative organization in place until 1991 to provide for the maintenance of dams, even though additional Federal guidelines and BIA policy require that agency officials ensure that dams are properly maintained.

Due to the lack of a comprehensive dam safety program, the Bureau of Indian Affairs has not carried out a timely program of correcting the serious deficiencies revealed in a 1989 report prepared by the Department's inspector general. Today, at least 7 of the 22 BIA-administered dams in New Mexico have been identified as containing structural problems which classifies them as presenting high or significant hazards to human life and property in the event of failure. Mr. President, it is of deep concern to me that these dams have not been repaired nor sufficient measures taken by the BIA to initiate this repair.

This dangerous situation has three basic causes. First, the Secretary's Dam Safety Program has not been given a sufficiently high priority within the Bureau of Indian Affairs. Second, BIA continues to allow the unrestricted use of unsafe dams. And, third, BIA either doesn't have, or has not used, available engineering and fiscal resources to work on problem dams.

In addition to threats to human safety and property, BIA inaction has resulted in increased maintenance costs for the current inventory of dams, as well as increasing the costs of correcting critical problems.

To correct this situation and hopefully avert a human and material tragedy, I am introducing legislation which will provide for the immediate inventory of dams on Indian lands within New Mexico, the classification of all dams using Bureau of Reclamation

safety standards, and the timely repair of unsafe conditions at targeted dams.

Equally important, this legislation calls for the establishment of a dam safety, operation, and maintenance program within the Bureau of Indian Affairs. The goal of this measure is to create, within the BIA, a long-term dam safety management program similar to programs currently in place within the Bureau of Reclamation and the Army Corps of Engineers. Once the immediate life threatening problems at a dam has been identified and repaired, that dam will be monitored to ensure its continued safety.

My bill also permits the Secretary of the Interior to enter into memoranda of understanding with other appropriate Federal agencies, including the Bureau of Reclamation and the Army Corps of Engineers, to provide any technical expertise needed to implement an effective dam safety program.

It is also important to note that the work authorized under this act will be for the purpose of responding to problems of dam safety, and not to increase the conservation storage capacity of dams or otherwise increase the benefits of the original dams and reservoirs.

In order to promote increased involvement of American Indians in the management of dams on their own lands, this legislation authorizes the Secretary to contract with appropriate Indian tribes to carry out elements of the dam safety operation and maintenance program.

Mr. President, I realize that the scope of this problem will undoubtedly extend beyond the boundaries of New Mexico into our neighboring States. The inspector general's report revealing major problems with New Mexico dams indicated at least 19 dams in neighboring States have similar problems. I remain open to requests from my colleagues to add language to this bill which includes them within its scope.

Mr. President, I ask unanimous consent that the text of this bill be placed in the RECORD.

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

S. 2617

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Dams Safety Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in 1980, the Secretary of the Interior established a dam safety program to correct deficiencies identified by inspections of dams;

(2) the Bureau of Indian Affairs (hereafter referred to in this Act as the "BIA") has not made timely progress toward accomplishing the objectives of the dam safety program and, as a result, people are in jeopardy;

(3) the BIA has been slow to correct serious safety deficiencies at many dams under its jurisdiction that were classified in 1989 as presenting a high or significant hazard to human life and property should failure occur;

(4) there are Federal guidelines and departmental manuals which provide guidelines and directions for carrying out the dam safety program;

(5) unsafe BIA dams continue to pose an imminent threat to people and property because the dam safety program has not been given a sufficiently high priority, the BIA continues to allow the unrestricted use of unsafe dams, and the BIA has not used available engineering and fiscal resources effectively to correct the situation;

(6) until 1991, the BIA did not have a program to ensure proper periodic maintenance of dams under its jurisdiction, although a BIA manual requires that area directors, agency superintendents, and project engineers ensure that dams are properly maintained;

(7) dams are not being properly maintained because there is insufficient attention to regular dam maintenance through the proper allocation of resources and the clean definition of maintenance responsibility;

(8) the results of this inaction are that maintenance costs increase as dams are not being properly maintained on a set schedule and costs for the dam safety program increase as initial problems which could have been resolved by periodic inexpensive maintenance become dam safety issues because they remained unchecked;

(9) many dams in New Mexico have operation and maintenance deficiencies regardless of their safety condition classification, and there are additional BIA dams in New Mexico not being maintained under the dam safety program; and

(10) it is necessary to take action to have these dams repaired and maintained, utilizing expertise either within the BIA or provided to the BIA through other agencies, in an operation and maintenance program for dams.

SEC. 3. DEFINITIONS.

For the purposes of this Act.

(1) INDIAN TRIBES.—The term "Indian tribes" has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) DAM SAFETY PROGRAM.—The term "dam safety program" means the program established by the Secretary of Interior by order dated February 28, 1980, to prevent dam failure and the resulting loss of life or serious property damage.

(4) DAM SAFETY OPERATION AND MAINTENANCE PROGRAM.—The term "dam safety operation and maintenance program" means a program of regular, recurring, routine maintenance, examination, and monitoring of the condition of dams identified pursuant to section (4)(c) necessary to maintain the dam in a safe condition on a long-term basis.

(5) DAM SAFETY CONDITIONS CLASSIFICATIONS.—The term "dam safety condition classifications" means the following classifications cited in the Bureau of Reclamation glossary of dam safety terms:

(A) SATISFACTORY.—No existing or potential dam safety deficiencies are recognized. Safe performance is expected under all anticipated conditions.

(B) FAIR.—No existing dam safety deficiencies are recognized for normal loading conditions. Infrequent hydrologic or seismic events would probably result in a dam safety deficiency.

(C) CONDITIONALLY POOR.—A potential dam safety deficiency is recognized for unusual loading conditions that may realistically occur during the expected life of the structure.

(D) POOR.—A potential dam safety deficiency is clearly recognized for normal loading conditions. Immediate actions to resolve the deficiency are recommended; reservoir restrictions may be necessary until resolution of the problem.

(E) UNSATISFACTORY.—A dam safety deficiency exists for normal loading conditions. Immediate remedial action is required for resolution of the problem.

SEC. 4. ACTIONS BY SECRETARY.

(a) ESTABLISHMENT OF DAM SAFETY OPERATION AND MAINTENANCE PROGRAM.—The Secretary shall establish a dam safety operation and maintenance program within the BIA to ensure the regular, recurring, routine maintenance, examination, and monitoring of the condition of each dam identified pursuant to subsection (c) necessary to maintain the dam in a satisfactory condition on a long-term basis.

(b) REHABILITATION.—The Secretary is directed to perform such rehabilitation work as is necessary to bring the dams identified pursuant to subsection (c) to a satisfactory condition. Upon the completion of rehabilitation work on each dam, the dam shall be placed under the dam safety operation and maintenance program established pursuant to subsection (a) and shall be regularly maintained under the guidelines of such program.

(c) LIST OF DAMS.—The Secretary shall develop a comprehensive list of dams located on Indian lands in New Mexico that are in a fair, conditionally poor, poor, or unsatisfactory condition, as such terms are defined in section 3(5).

(d) PURPOSE.—Work authorized by this Act shall be for the purposes of dam safety operation and maintenance and not for the purposes of providing additional conservation storage capacity or developing benefits beyond those provided by the original dams and reservoirs.

(e) TECHNICAL ASSISTANCE.—To carry out the purposes of this Act, the Secretary may obtain technical assistance from agencies other than the BIA under his jurisdiction, such as the Bureau of Reclamation, or from other departments through memoranda of understanding, such as the Department of Defense. Notwithstanding any such technical assistance, the safety of dams program and the dam safety operation and maintenance program shall remain under the direction of the BIA.

(f) CONTRACT AUTHORITY.—In addition to any other authority established by law, the Secretary is authorized to contract with appropriate Indian tribes to carry out the dam safety operation and maintenance program established pursuant to this Act.

SEC. 5. AUTHORIZATION

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.•

By Mr. SEYMOUR:

S. 2618. A bill to amend the Internal Revenue Service Code of 1986 to exempt vessels of 100 gross tons or less from the tax on transportation of persons by water; to the Committee on Finance.

EXEMPTION OF SMALL VESSELS FROM PASSENGER TAX

• Mr. SEYMOUR. Mr. President, I rise to introduce legislation that will clar-

ify a provision of the Internal Revenue Code. During consideration of the 1989 Budget Reconciliation Act, Congress included a provision placing a $3 per-passenger fee on vessels headed for international waters. The purpose of this tax was to target those ships offering unrestricted gambling on the high seas, and traditional cruise vessels. This is similar to the tax levied on airline passengers departing for international destinations.

Unfortunately, small passenger vessels offering such activities as sport fishing, whale watching, and recreational diving are being jeopardized because the Internal Revenue Service [IRS] has misinterpreted the intentions of Congress. As of April 1990, the IRS required the operators of these small vessels to pay the $3 per-passenger fee. However, a final ruling on this matter has not been issued by the IRS.

Small vessel operators charge their passengers much less than traditional cruise lines. Subjecting these vessels to the passenger tax could very possibly put many operators out of business. Therefore, I am introducng today legislation to clarify congressional intent, and protect small operators from this unfairness. My bill will exempt small vessels from the fee by requiring only vessels over 100 gross tons to be subject to the tax.

Mr. President, I hope my colleagues will join me in supporting this important corrective legislation. We all can agree that there are certain occasions in the Senate to clarify the intentions of Congress. Clearly, this is one of those occasions.●

By Mr. GLEN:

S. 2619. a bill to amend the Federal Property and Administrative Services Act of 1949 to enact provisions governing the negotiation and award of contracts under the Multiple Award Schedule Program of the General Services Administration; to the Committee on Governmental Affairs.

MULTIPLE AWARD SCHEDULE PROGRAM REFORM ACT

● Mr. GLENN. Mr. President, today I introduce the Multiple Award Schedule Program Reform Act of 1992. This bill will, for the first time, establish a statutory procedure to specifically govern a Federal contracting program worth in excess of $4 billion per year.

Under the Multiple Award Schedule Contract Program, the General Services Administration, acting as a central agent for the Federal Government, awards contracts to multiple offerors for a large variety of commercial products and services. These products range from standard office supplies to complex computer equipment and services. Executive agencies authorized to use these contracts simply place orders at prenegotiated prices which are intended to reflect the Government's volume purchasing power.

The schedules program has been the subject of recurring debate regarding whether the Government actually receives a good deal on the products and services acquired. We have heard complaints, as well, that agencies fail to follow existing procedures when using schedule contracts, resulting in their making purchases at other than the lowest cost. Schedule contractors complain that GSA makes unreasonable pricing demands which conflict with established commercial selling practices and thus drive up costs to the Government.

At the heart of these issues, is, I believe, the lack of any clear statutory provisions to govern the process. In particular, I am concerned that GSA's imposition of a vague policy requirement to receive an offeror's most favored commercial customer pricing may actually result in increased costs to the Government. Indeed, there have been reported cases of companies being denied schedule contracts solely for failure to offer GSA their most favored commercial customer pricing, despite the fact that their competitors had been awarded contracts for similar products at higher prices. As a result, executive agencies, for whose benefit the program is intended, are left to pay the difference. This bill would cure that problem by making fair and reasonable prices the objective in schedule contract negotiations. It is also my belief that this bill will have the effect of increasing the number of offerors participating in the schedules program. That increase in offerors will translate into more schedule contracts. With an increase in schedule contracts, the government will enjoy a ripple of benefits, specifically an increase in competitive pressure on prices and in the variety of products and services for agencies to choose from.

Section 2 of the bill would amend the Federal Property and Administrative Services Act of 1949 to add a new section defining the procedures of the Multiple Award Schedule Contract Program. The fundamental objective of the program is stated at the outset: to provide executive agencies with a simplified means to acquire limited quantities of commercial products and services at fair and reasonable prices. The new section then sets forth procedural provisions regarding the award and administration of schedule contracts to meet that objective.

With respect to the award of schedule contracts, the section provides that among other things:

GSA's pricing objective will be to obtain fair and reasonable prices. Negotiation of fair and reasonable prices is the paramount requirement applicable to every acquisition by the government. This well-established requirement would replace the existing vague and often counter-productive policy objective of GSA to obtain "most favored customer" pricing.

The determination of fair and reasonable prices would be made using either price or cost analysis under applicable procurement regulations. Since commercial products and services are solicited under the schedules program, price analysis, which essentially involves the consideration of comparable commercial catalog and market prices for the items involved, would ordinarily be used.

The determination of fair and reasonable prices would take into consideration the unique features of the schedules program, such as the total aggregate volume of purchases to be expected under a schedule contract and the existence of multiple ordering and delivery sites to be administered.

Only the minimum amount of data necessary to conduct effective negotiations would be required from schedule offerors. This restriction is intended to make the schedules program disclosure requirements consistent with the Paperwork Reduction Act.

Prices under awarded schedule contracts would be subject to adjustment as necessary to assure that they remain fair and reasonable. An appropriate implementing clause must be included in every contract for this purpose.

Disappointed offerors would be able to protest decisions of the contracting officer in connection with the award of schedule contracts to the GSA Board of Contract Appeals, a forum with established expertise in this area.

With respect to administration of schedule contracts, the section includes certain agency justification and reporting requirements. Orders in excess of $2,500, at other than the lowest deliverable price, would have to be reported to the advocate for competition of the agency who will be responsible for policing the agency's compliance with the procedures governing the use of schedule contracts. The intent here is to respond to complaints we have heard that agencies are ignoring or failing to follow those procedures. While I am very disturbed by such complaints, the sensible answer does not lie in burdening agencies with additional procedures, but in more effectively policing compliance with the procedures which already exist and have not been proven ineffective.

The section would also require that a senior procurement executive be appointed within GSA to manage the schedules program and interface with executive agencies and industry. A program of this magnitude certainly warrants the existence of a single responsible official who can account for its proper management. The section would also require the development of a training program within GSA for the appropriate training of agency personnel responsible for the negotiation and award of schedule contracts.

Section 3 of the bill would require GSA to revise its existing procedures to conform to the provisions of the bill by no later than their effective date.

Section 4 of the bill would make the provisions of the bill effective 120 days after its enactment.

In conclusion, Mr. President, I believe that this bill contains needed reform which will substantially benefit the procurement system. I look for-

ward to working with you and my other colleagues toward its enactment.

Mr. President, I ask unanimous consent that a more detailed section-by-section analysis be printed in the RECORD.

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

MULTIPLE AWARD SCHEDULE PROGRAM REFORM ACT OF 1992 SECTION-BY-SECTION ANALYSIS

This bill, the Multiple Award Schedule Program Reform Act of 1992, will improve the multiple award schedule program, administered by the General Services Administration, by giving it clear statutory basis and setting forth needed provisions to govern the award and administration of schedule contracts.

Section 1. Section 1 provides that the title of the bill is the "Multiple Award Schedule Program Reform Act of 1992".

Section 2. Section 2 of the bill adds a new section 113 to Title 1 of the Federal Property and Administrative Services Act of 1949 to define the objective and scope of the procedures used by the Administrator of the General Services Administration in the negotiation and award of contracts under the multiple award schedule program.

New subsection 113(a) contains definitions of the terms "multiple award schedule program" and "multiple award schedule contracts".

New subsection 113(b) states generally that the procedures shall be intended to provide Federal agencies with a simplified means to acquire limited quantities of commercially available items and services at fair and reasonable prices.

Paragraph (1) of the new subsection provides that the pricing objective of the General Services Administration in negotiating multiple award schedule contracts shall be to obtain fair and reasonable prices. This paragraph further prohibits the award of a scheduled contract absent a written determination that this objective has been achieved. This paragraph also provides that no award may be withheld unless a supportable determination of fair and reasonable prices cannot be made.

Paragraph (2) of the new subsection provides that schedule contract prices ordinarily shall be negotiated based upon established catalog or market prices for the offered items. The basis for price negotiations shall be cost or pricing data when such data is required by applicable law.

Paragraph (3) of the new subsection provides that the determination of fair and reasonable prices under multiple award schedule contracts shall be made in accordance with either price or cost analysis, whichever applies. Subparagraph (3)(A) provides that when price analysis is used, all relevant and reasonably available information called for by regulation shall be considered, inclusive of the offeror's discount and pricing policies for those commercial buyers purchasing in substantial quantities under terms and conditions similar to the government, and the prices offered by other schedule offerors for similar items.

Subparagraph (3)(B) provides that the fair and reasonable price determination shall take into consideration the aggregate volume of purchases to be expected under the schedule contract, as well as the lack of any minimum quantity commitments. This subparagraph also requires that appropriate consideration be given to the existence of multiple agency ordering and delivery sites to be administered under the contract.

Subparagraph (3)(C) provides that the government shall be considered an end-user buyer for purposes of conducting negotiations. This subparagraph also provides that primary consideration in determining fair and reasonable prices, using price analysis, shall be given to the offeror's discount and pricing policies relative to its large volume, end-user commercial buyers.

Paragraph (4) of the new subsection restricts the amount of discount and sales information to be submitted by schedule offerors to the minimum information necessary to support a fair and reasonable price determination. Thus, information concerning an offeror's non-end user commercial buyers operating under different terms and conditions ordinarily should not be required. This restriction is intended to make the disclosure requirements consistent with the provisions of the Paperwork Reduction Act.

Paragraph (5)(A) of the new subsection provides that prices under awarded schedule contracts shall be subject to adjustment whenever necessary to remain fair and reasonable. Paragraph (5)(B) identifies those circumstances which would provide a basis for a schedule price adjustment.

Paragraph (5)(C) restricts the amount of any schedule price adjustment to that which is necessary to make the price fair and reasonable in the determination of the contracting officer.

Paragraph (5)(D) provides that reduced price sales to Federal agencies shall not be the basis for schedule price adjustments where such sales are in excess of the schedule contract maximum order limitation and are made using competitive procedures.

Paragraph (5)(E) requires that all multiple award schedule contracts include appropriate reporting requirements in order to implement required schedule price adjustments.

New subsection 113(c) includes certain provisions regarding the use of multiple award schedule contracts by authorized agencies. Paragraph (1) of the new subsection reaffirms the requirement in existing law that orders under multiple award schedule contracts be placed so as to obtain the lowest overall cost alternative to meet the needs of the agency.

Paragraph (2) of the new subsection imposes a justification and reporting requirement on user agencies when placing orders under schedule contracts in excess of $2,500 at greater than the lowest deliverable price under any such contract. Such orders would have to be reported to the advocate for competition of the agency for consideration in connection with performance of the advocate's duties and responsibilities set forth in the Office of Federal Procurement Policy Act.

New subsection 113(d) includes certain miscellaneous provisions. Paragraph (1) of the new subsection requires that all schedule contracts for periods in excess of one year provide for at least annual "open seasons" for solicitation of additional offerors.

Paragraph (2) of the new subsection requires that a procedure exist within the General Services Administration for appeals by schedule offerors of contracting officer decisions on preaward pricing matters. Such appeals would be made to the head of the cognizant contracting office or an appropriate designee at a level above the contracting officer.

Paragraph (3) of the new subsection requires that the Administrator appoint a senior procurement executive to be responsible for management direction of the multiple award schedule program in order to assure that the objectives and provisions of this section are achieved. This paragraph also requires that the appointed individual implement procedures to assure the timely award and administration of schedule contracts, and serve as the Administrator's liaison to executive agencies and industry.

Paragraph (4) of the new subsection requires that the Administrator develop and maintain a training program for personnel involved in the negotiation and award of multiple award schedule contracts to assure that they have adequate knowledge of the program, basic commercial business practices and price and cost analysis techniques.

Paragraph (5) of the new subsection provides that user agencies shall be provided access to all multiple award schedule contracts which are awarded, as well as appropriate guidance concerning the use of such contracts in accordance with applicable procurement regulations.

New subsection 113(e) provides that offerors for multiple award schedule contracts may protest decisions of a contracting officer or an individual designated under subsection 113(d)(2), in connection with the award or failure to award a schedule contract, to the board of contract appeals of the General Services Administration. The subsection further provides that the board shall review such protests using the standard applicable to review of contracting officer final decisions. The subsection also provides that such protests shall be subject to the procedures which govern protests filed under the authority of section 111(f) of the Federal Property and Administrative Services Act.

Subsection (b) of Section 2 of the bill conforms the Table of Contents in the first section of the Federal Property and Administrative Services Act of 1949 to add a new item referencing "Sec. 113. Multiple Award Schedule Program procedures.".

Subsection (c) of Section 2 of the bill amends Section 20(b) of the Office of Federal Procurement Policy Act to require that agency advocates for competition review the compliance of their respective agencies with the regulations governing the use of multiple award schedule contracts.

Section 3. Section 3 of the bill requires that the Administrator revise the existing procedures for the negotiation and award of multiple award schedule contracts to reflect the provisions of this bill. Such revised provisions are to be finalized by the effective date of the Act and shall apply to all schedule contracts awarded after such date.

Section 4. Section 4 of the bill provides that the amendments made by the bill will become effective 120 days after enactment.●

By Mr. KENNEDY:

S. 2621 A bill to improve the administrative provisions and make technical corrections in the National Community Services Act of 1990; to the Committee on Labor and Human Resources.

NATIONAL AND COMMUNITY SERVICE TECHNICAL AMENDMENT ACT

Mr. KENNEDY. Mr. President, today I am introducing the National and Community Service Technical Amendments Act of 1992. This legislation makes minor technical and administrative changes in the National and Community Service Act of 1990. These modifications will help the Commis-

sion on National Service, the independent agency created to administer the act, to do a more effective job of carrying out its mission of involving more Americans in service to their community and their country.

These amendments have the support of the National Service Commission, the Bush administration, and Senators HATCH and MIKULSKI. These changes will improve the Commission's ability to expand the numbers of citizens involved in addressing the most pressing problems facing communities across the Nation, such as illiteracy, homelessness, drug abuse, and poverty.

These amendments will enhance implementation of the act in several ways. They will allow the Commission to perform better evaluations of programs it funds, thereby improving the efficiency and effectiveness of the act. The amendments clarify Congress' intent that the Commission has the ability to appoint an executive director, bring in outside experts from the community service field to provide the best technical assistance possible, and hire such staff as is necessary to handle day-to-day administration.

Also, the amendments made explicit the Commission's authority to hire consultants, accept donations of services and property, and enter into agreements with other Federal agencies in order to share information or personnel. Finally, the amendments raise the authorization level for the Commission from $2 million to $3 million a year. The budgetary increase is essential for the Commission to fulfill its numerous statutory mandates, monitor the grants awarded in the first year of implementation, and distribute an anticipated increased number of grants in the second year.

The National Service Commission is guided by an extraordinarily diverse and talented Board of Directors. It has shown commendable energy and dedication throughout the implementation process. In 6 months' time, they have issued preliminary rules and regulations, held hearings across the country to receive public comments, promulgated final regulations, and accepted grant applications. This week, they began evaluating and reviewing the several hundred proposals received. The Commission and its staff deserves great credit for these tireless efforts. These technical amendments will facilitate this important work, and I look forward to prompt approval of the amendments by Congress.

By Mr. ROBB:

S. 2622. A bill to establish an Office of Cambodian Genocide Investigation, to support efforts to bring to justice national Khmer Rouge leaders who committed crimes against humanity on Cambodia, and to exclude the national leadership of the Khmer Rouge from the United States; to the Committee on Foreign Relations.

KHMER ROUGE PROSECUTION AND EXCLUSION ACT

• Mr. ROBB. Mr. President, a longtime scholar of Cambodia, recently observed that it is common to hear the view expressed among Cambodians about the Khmer Rouge that "Pol Pot massacred his own Khmer People". Auto-genocide, the killing of one's own people doesn't appear in Webster's dictionary, but the "word" aptly describes what happened to the Cambodian people during the Khmer Rouge's 3½ year reign of terror between 1975 and early 1979. Sadder yet, the international community passes the autogenocide issue by as if nothing happened.

Mr. President, diplomacy, in part, entails understanding a foreign country's history, and applying that wisdom in the future. How can the international community help build a better future for Cambodia, if it fails to help remedy the psychological wounds from that country's genocidal past?

During his recent visit to Washington, I spoke privately, with Cambodian Prime Minister Hun Sen about the genocidal Khmer Rouge, and the current challenges facing his nation. Hun Sen expressed to me his moral outrage about the slaughter of over a million innocent Cambodians, at Pol Pot's behest in the 1970's, but he despaired when I asked what could be done about pursuing the issue of genocide. On such a difficult question, I realize there are few easy answers. When I travel back to Phnom Penh in less than 2 weeks, I will raise the matter again with the Prime Minister, and others in hopes of reminding Cambodians that we have not forgotten about Pol Pot's atrocities.

Mr. President, more than a decade after the killing fields, the presence of the Khmer Rouge still haunts this war-ravaged nation. We're in the midst of a massive U.N. peacekeeping operation that points toward elections, presumably sometime next year, with no assurance that the Khmer Rouge, who have been dealt a hand at the table as part of a calculated gamble to restore lasting peace in Cambodia, will not be returned to power.

Mr. President, I believe pressure must be brought to bear, now, on the national military, and political leadership of the Khmer Rouge within the parameters of the Paris Peace Accord, and the legislation I am introducing today, accomplishes this feat.

The Khmer Rouge Prosecution and Exclusion Act, establishes a State Department office located in Cambodia to investigate crimes against humanity, committed by national Khmer Rouge leaders, in the period beginning April 17, 1975, and ending January 7, 1979, provides the people of Cambodia with access to documents, records, and other evidence, held by this newly created office, and requires that the relevant data accumulated be submitted to an international tribunal, that hopefully, will be convened at a later date to formally hear and judge the genocidal acts committed by the Khmer Rouge.

Mr. President, the legislation is quite simple. It is aimed directly at the national leadership of the Khmer Rouge. Establishment of an investigative office is in no way designed to affect the interim U.N. administration of Cambodia, or the eventual conduct of elections. Our administration should in no way interpret this measure as an obstacle to current United States and United Nations efforts, to create a framework for elections in Cambodia, which I strongly support. In fact, if anything the legislation could create a more informed electorate in Cambodia, singling out certain Khmer Rouge leaders as the lawless hoodlums they pretend not to be.

Mr. President, those of us interested in bringing to justice, the national military and political leadership of the Khmer Rouge, find ourselves, in an awkward position. Literally, what steps can be taken to prosecute Pol Pot, Khieu Samphan, Son Sen, Leng Sary, Nuon Chea, Ke Pauk, Mok, Leng Thirith, Yun Yat, and others for their past actions?

Applying the Convention on the Prevention and Punishment of the Crime of Genocide holds some promise, since the Senate has ratified it and Cambodia abides by it, but unfortunately language in the Convention suggests, at least to me, conditional jurisdiction.

Specifically, let me quote from the report issued by the Foreign Relations Committee in 1985 when the Convention was considered and ratified:

> Article II limits the crime of Genocide to acts aimed at the destruction of national, ethnical, racial, or religious groups. The terms are meant to extend coverage of the convention to as many groups as possible. The principal group excluded from article II is a group that is identifiable on the basis of its political beliefs alone. A group defined solely by its opposition to an occupying power, for example, is not protected by the Convention.

Khmer Rouge leaders, who I understand have read provisions of the Genocide Convention with an eye for detail, view article II as a potential loophole. And they may be right. Pol Pot and his cohorts, might claim that it was their political beliefs alone that caused the opposition to be joined, which would fortuitously rule out their being defined as genocide offenders under article II.

Additionally, Mr. President, article VI of the Genocide Convention states that:

> Persons charged with genocide or any other acts * * * shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

In other words, consent from Cambodian leaders, whomever they may be when elected, will be necessary in order to prosecute Pol Pot and other national leaders. Thus, understanding the conditionality involved in pursuing the matter, I urge the international community to gather itself to challenge the Khmer Rouge leadership's convoluted arguments, justifications, and denials for not being put on trial. This legislation can serve as a useful means for achieving that end. And while I understand there has not yet been an instance where the Genocide Convention has been successfully invoked, this should not deter us from attempting to apply its provisions to the Khmer Rouge.

Mr. President, this legislation seeks to create momentum now so that we may prosecute Pol Pot and his henchmen later. The bill casts proper light on these wanton killers of the Cambodian people, and begin the effort to establish an official and conclusive record of the crimes against humanity committed by the Khmer Rouge.

Mr. President, on the subject of genocide, I've been struck recently by the acute interest in the plight of the Kurds. Notable figures, such as Jeanne Kirkpatrick and Senator Dole, have termed what happened in Kurdistan as genocide, and I have no quarrel with their characterizations. Regarding the Kurdish population in Iraq, 3 weeks ago the minority leader asked, "where is the outrage? Have we not learned from Hitler's holocaust, from the killing fields of Cambodia?" Unfortunately, the factual record on the killing fields in Cambodia is incomplete, and as the years slip by it becomes more difficult to establish in any comprehensive fashion, exactly what happened during those years of terror. History is being whitewashed, much to the delight and satisfaction of Pol Pot.

However, the legislation I am introducing today, will vastly expand our base of knowledge by documenting, collecting, organizing, and evaluating information on the atrocities committed by national Khmer Rouge leaders against Cham Moslems, Khmer peasants, Buddhist Monks, ethnic Chinese, and scores of others. It will also make clear, this body's abhorrence of such mass extermination campaigns, and demonstrate what can be done in the aftermath to prevent them from ever happening, again.

Mr. President, if someone were to suggest that initiating a broad scale investigation of these renegades, sounds good but is far-fetched, there is a modern day precedent for such fact gathering and documentation to consider relating to war crimes committed in Kuwait, by Iraqi occupiers. In August, 1990, the State Department, and Department of Defense began to pursue Iraqi war criminals. Dozens of officials at State and DOD were tasked to collect information, interview victims and eyewitnesses, track media reports, debrief Iraqi defectors, cultivate foreign sources, and establish an overall data base, of evidence, in order to prosecute, at some later date, those individuals responsible for committing war crimes. A War Crimes Documentation Center, was established to serve as the point of control and direction, for the operation. Significant expenditures were made, to gather the information, and I understand the accumulation of evidence is continuing.

Mr. President, in order to make the strongest case possible against Pol Pot and his collaborators, we need to establish a similar type of operation on the ground in Cambodia. While some may argue that a statute of limitations exists, I simply don't believe that's the case. Too many Cambodians died, horrible senseless deaths for us to let this slip from our memories, and the future of this country is too important for us to move ahead without properly reflecting on what's happened.

At the signing of the Paris Peace Accord, Secretary of State Baker committed the United States to supporting "efforts to bring to justice, those responsible for the mass murders of the 1970's, if the new Cambodian government, chooses, to pursue this path," but that places a heavy burden on future Cambodian leaders. We need to begin providing strong incentives, now, not later, to the future leadership of the country to choose to prosecute the national Khmer Rouge leaders, and this legislation will provide factual grounds for going that route.

Mr. President, a U.S. initiated, U.S. funded, and U.S. operated investigative office will increase the likelihood that an airtight case is made against specific perpetrators when and if a penal tribunal is convened, while keeping the spotlight on these common law criminals in the interim. Any Cambodian, will be able to learn about his or her country's grisly history, and we can hope specific information about how and when and where a relative was executed.

Make no mistake, Mr. President, being held accountable is what national Khmer Rouge leaders fear most. An Office of Cambodian Genocide Investigation will allow the international community, led by the United States, to take the first tentative steps toward hunting down these individuals for their crimes against humanity. It will tighten the noose on the Khmer Rouge, and I believe, every Member would agree on the worthiness of that goal.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. BENTSEN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 25

At the request of Mr. CRANSTON, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 68

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 177

At the request of Mr. INOUYE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 177, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 215

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 215, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products.

S. 240

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1788

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1788, a bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites

for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site.

S. 1860

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1860, a bill to amend part A of title IV of the Social Security Act to remove barriers and disincentives in the program of aid to families with dependent children so as to enable recipients of such aid to move toward self-sufficiency through microenterprises.

S. 1929

At the request of Mr. DECONCINI, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to allow individuals to exclude certain amounts of interest from gross income.

S. 1942

At the request of Mr. GLENN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. DIXON], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1942, a bill to provide for procedures for the review of Federal department and agency regulations, and for other purposes.

S. 1988

At the request of Mr. COHEN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1988, a bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the Medicare Program, and for other purposes.

S. 2013

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2013, a bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination.

S. 2055

At the request of Mr. SIMON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2055, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act, and for other purposes.

S. 2089

At the request of Mr. NICKLES, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2089, a bill to repeal exemptions from civil rights and labor laws for Members of Congress.

S. 2283

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2283, a bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1993, 1994, 1995, and 1996, and for other purposes.

S. 2321

At the request of Mr. AKAKA, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. LUGAR], the Senator from Nevada [Mr. BRYAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. D'AMATO], the Senator from Colorado [Mr. WIRTH], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2321, a bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes.

S. 2327

At the request of Mr. HATFIELD, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. FOWLER], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2327, a bill to suspend certain compliance and accountability measures under the National School Lunch Act.

S. 2346

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 2346, a bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means.

S. 2366

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2366, a bill to provide for coverage of Congress under Federal civil rights and employment laws, and for other purposes.

S. 2400

At the request of Mr. PRYOR, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 2400, a bill to amend title XVIII of the Social Security Act to extend special payments under part A of Medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 2409

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2409, a bill to amend the provisions of the Omnibus Trade and Competitiveness Act of 1988 with respect to the enforcement of machine tool import arrangements.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Idaho [Mr. SYMMS], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2508

At the request of Mr. SPECTER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2508, a bill to amend the Unfair Competition Act to provide for private enforcement of the Unfair Competition Act in the event of unfair foreign competition, and to amend title 28, United States Code, to provide for private enforcement of the customs fraud provisions.

S. 2514

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2514, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers a bad debt deduction for certain partially unpaid child support payments and to require the inclusion in income of child support payments which a taxpayer does not pay, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 227, a joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress.

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Vermont [Mr. LEAHY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 251

At the request of Mrs. KASSEBAUM, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from Virginia [Mr. ROBB], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Georgia [Mr. NUNN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 251, a joint resolution to designate the month of May 1992 as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 252

At the request of Mr. DIXON, the names of the Senator from Florida [Mr. MACK], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 252, a joint resolution designating the week of April 19 - 25, 1992, as "National Credit Education Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. SPECTER, his name was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 282, a joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

SENATE JOINT RESOLUTION 292

At the request of Mr. SMITH, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 292, a joint resolution to provide for the issuance of a commemorative postage stamp in honor of American prisoners of war and Americans missing in action.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DODD, the names of the Senator from Tennessee [Mr. GORE], and the Senator from Ohio [Mr. GLENN] were added as cosponsors 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 RESOLUTION 221

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE CONCURRENT RESOLUTION 110—AUTHORIZING CONSTRUCTION OF A MONUMENT ON UNITED STATES CAPITOL GROUNDS TO HONOR THOMAS PAINE

Mr. SYMMS (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BOND, Mr. BOREN, Mr. BREAUX, Mr. BROWN, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORTON, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WOFFORD) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 110

SECTION 1. AUTHORIZATION OF MEMORIAL.

(a) IN GENERAL.—The Thomas Paine National Historical Association (hereafter referred to in this Resolution as the "Association") is authorized to construct on the United States Capitol Grounds, at a site specified in subsection (b), an appropriate monument, which shall be an Heroic Statue, to honor the United States patriot, founding father, writer, and political philosopher, Thomas Paine.

(b) SITE FOR MONUMENT.—The monument authorized by subsection (a) shall be constructed on a site, to be approved by the Architect of the Capitol and designated as the "Thomas Paine Memorial Commons", within the area designated as square 575 on the drawing of the Architect of the Capitol, bordered by Pennsylvania Avenue on the south, Third Street on the west, Constitution Avenue on the north, and First Street on the east.

SEC. 2. DESIGN.

In accordance with section 4, the Association shall submit the original design and plans for the construction of the monument for approval to the Architect of the Capitol, who shall review submitted designs and plans within three months.

SEC. 3. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the monument.

SEC. 4. CONDITIONS.

(a) PLANS.—The Association shall submit the design and plans for the construction of the monument within 12 months following the date of the passage of this Resolution.

(b) COMMENCEMENT OF CONSTRUCTION.—Subject to subsection (c) and in consultation with the Architect of the Capitol, the Association shall commence construction of the monument within 36 months following the date of approval by the Architect of the Capitol of the plans pursuant to section 2.

(c) SUFFICIENT FUNDS.—Construction of the monument shall not begin until the Architect of the Capitol finds that the Association has sufficient funds available to ensure completion of the monument.

(d) FAILURE TO MEET CONDITIONS.—The Architect of the Capitol is authorized to revoke the authority granted by section 1 if the Architect determines that the Association has failed to satisfy any condition set forth in subsection (a), (b), or (c). In such event, or if the Association abandons the planning or construction of the monument, all unexpended funds collected by the Association through charitable solicitation shall be returned to the donors.

SEC. 5. ACCEPTANCE AND MAINTENANCE.

After completion of the monument according to the approved plans and specifications, it shall be accepted on behalf of the people of the United States by the Congress and shall be maintained by the Congress as part of the United States Capitol Grounds.

Mr. SYMMS. Mr. President, today, I am submitting a concurrent resolution which deals with Thomas Paine. Thomas Paine wrote Common Sense, The American Crisis, The Rights of Man. He converted the Colonial discontent into action. He was the first Founding Father to publicly advocate the abolition of slavery in North America. Yet he has not yet been honored with even

a plague in our Nation's Capitol, although there is a small painting of his profile on a ceiling on the House Side, thanks to Senator Max Mathias and Representatives Augustus Hawkins and Fred Schwengel.

This legislation I am submitting today will allow the private sector to construct a modest memorial in the form of a heroic statue, to Thomas Paine on publicly owned land at the intersection of Pennsylvania and Constitution Avenues on the grounds of the Capitol. This memorial will be constructed entirely with volunteer contributions at no cost to the taxpayer, and visitors to Washington will no longer wonder why we have overlooked one of the most important figures in American history.

Under the terms of the legislation, the Architect of the Capitol has total authority to ensure the memorial is consistent with our Capitol's design and beauty.

Paine emigrated from England to Pennsylvania at the urging of Ben Franklin. Immediately after arriving Paine published attacks on slavery and the subjugation of women, followed by the first call to separate from England and create the United States of America as a free and sovereign democratic nation with a written constitution for the purpose of: "securing freedom and property to all men, and above all things, the free exercise of religion, according to the dictates of conscience."

Paine's most important works were published in Pennsylvania, so not surprisingly, he influenced the authors of the Pennsylvania Constitution, which contains many of the limits on Government power which first appeared in "Common Sense" and now are in our U.S. Constitution and Bill of Rights. As early as 1776 Paine published arguments for a representative, democratically elected government. Additionally, he successfully advocated the protection of individual and States rights while reconciling them with the need for a strong union for defense and to facilitate trade.

Mr. President, imagine with me if you will what might have happened had Ben Franklin not asked Thomas Paine to leave his birthplace in England and move to North America.

Imagine that Thomas Paine had not written "African Slavery in America," in 1774 which inspired the establishment of the first abolitionist society in North America.

Imagine that Paine had not written "Common Sense," and that it had not sold well over 100,000 copies to the few million people living here at that time.

Imagine that Paine's work, "The American Crisis," had not been available for General George Washington to have read to his troops, resulting in the victory at the Battle of Trenton in the closing moments of 1776.

Mr. President, suffice it to say that without Thomas Paine, the history of our Nation would have been a lot different.

I am not saying that we would still be a colony of England, simply that Thomas Paine was the catalyst who converted colonial angst into concrete action, and lifted the spirits of our retreating army, on the verge of defeat and converted their frustration, hunger and discontent into a bold and decisive victory.

Mr. President, like I have been, I am sure many of our colleagues have been asked by their constituents why there has never been a monument erected here in Washington, DC to Thomas Paine, for families to see that visit here to recognize this great American, one of the Founding Fathers.

Incidentally, our schoolchildren are taught that he was a principal force in founding the United States of America, a term that he made popular, "the United States of America."

In "African Slavery in America," Paine identified the despicable nature of slavery, and the fundamental human rights it violated.

In "Common Sense," Paine laid the blueprint for freedom for our Nation, including a call for independence and written, constitutional protection of religious and property rights.

In "The American Crisis," Paine challenged the tired, cold, hungry, retreating troops to stand for freedom. He insisted, that indeed:

> There are the times that try men's souls, The Summer Soldier and the Sunshine Patriot will, in this crisis, shrink from the service of their country; but he who stands now deserves the love and thanks of men and women.

And they won. It was the battle of Trenton, George Washington's first victory in the Revolution.

Mr. President, I want to see a monument to Thomas Paine erected here on Capitol Hill. Families visiting Washington, DC, have wondered too long why Thomas Paine is not memorialized in the Nation's Capital even though their children are taught he was a principal force in the founding of the United States of America, incidentally, a term he made popular.

Many of our colleagues, representing very diverse States and political philosophies have joined professors department chairs, and presidents of more than 80 of our Nation's colleges, universities, and respected organizations to finally accord Thomas Paine the honor he deserves as a Founder of our Nation.

As many of our colleagues may know, Thomas Paine called for revolution and independence while many patriotic leaders were still advocating reconciliation with the British monarchy. In essence Thomas Paine started the American Revolution by publishing "Common Sense."

His accomplishments are truly amazing. He wrote the best-selling publication written during his lifetime, yet he never got beyond grammar school. He was raised in poverty with tremendous respect for individual effort and liberty.

Prior to emigrating to America from England, Paine was a stay maker, a British exciseman, a schoolteacher, tobacconist, and grocer. In November 1774, he arrived in America with a letter of introduction from his friend, Benjamin Franklin who characterized him an "ingenious, worthy young man."

Paine's adult life was as difficult his childhood. His first wife, Mary, died almost 1 year after they married. His second wife, Elizabeth, separated from him after 3 years of marriage. Paine never had children.

Though poverty forced him to leave school at a young age, Paine educated himself. His deep understanding of current events and the sciences came strictly through his own desire, hard work, and discipline.

Thomas Paine came to Philadelphia on the November 30, 1774 to become what he would go down as in history: a journalist. He began by writing a broad range of articles for a publication called Pennsylvania magazine.

Even though Paine championed the abolition of slavery his first writings in America, it was "Common Sense" published in 1776 which enshrined him as a forefather of the American Revolution.

"Common Sense" stands as one of the great writings of all time. In this landmark publication of American history, Paine demonstrated that the Colonies had not only a practical, but also a moral obligation to immediately declare total Independence.

If Independence was embraced while American society was young, relatively pure and without corruption. Americans could demonstrate that indeed: "we have the power to make the world over again." Americans could show that if government respected private property, equal rights, religious freedom and individual liberty our society has the power to create opportunity and to advance society more than any other time in history. How right he was Mr. President.

He was a visionary who knew we had a mission. Paine was the first journalist to recognize that Americans could alter history and be a beacon for freedom.

Paine's political ideology blended a belief in limited government to protect individuals' rights while maintaining a strong Federal union for national defense and development of trade. He explained these complementary values in "Common Sense," the Crisis papers and later in the pamphlet, Public Good.

When there were only a few million people in the Colonies, "Common Sense" sold more than 100,000 copies—that must certainly be a record in per capita readership. Maintaining his aus-

tere existence, Paine gave all profits from "Common Sense" to buy mittens and shoes for the soldiers of the Northern Continental Army, incidentally led by General Montgomery and Ethan Allen—who I have heard is, a relative of our distinguished colleague, the chairman of the Foreign Relations Committee, the Senator from Rhode Island [Mr. PELL].

In 1776, Paine enlisted in the army. The situation was bleak, the enlistments of the Continental Army were expiring and its soldiers had known only retreat. With the large British army within striking distance of Philadelphia, Paine wrote the first "Crisis" paper, called the "American Crisis I."

The piece was so striking and motivational that General Washington ordered it read to the soldiers. The words galvanized them to action. Led by Washington, they crossed the Delaware and inflicted an important defeat on the better armed, and larger British and Hessian forces in New Jersey.

If you can picture this, Mr. President, it was cold, miserable and they were hungry. They had never seen victory. They had been chased and chased all the way from New York down through New Jersey to Pennsylvania. On the banks of the Delaware River—here were Paine's inspirational words from *American Crisis I*, that General Washington ordered read to the troops:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it *now*, deserves the love and thanks of man and women. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; it is dearness only that gives everything its value.

In April 1777, at the suggestion of John Adams, Thomas Paine was appointed by the Continental Congress to be Secretary to its Committee on Foreign Affairs in America, while his friend Ben Franklin was stationed in France serving Americans as his counterpart.

Many of the French oppressed under the monarchy, had read translated copies of Paine's defenses of freedom. They found the arguments so compelling that he also is credited with an important role in the French Revolution, prior to the reign of terror, during which he was imprisoned for attempting to ensure the rights of individuals to control their government. He was even honored with 4 seats in the new French national constitutional convention, one of which he accepted.

October 16, 1789, Paine wrote to George Washington and said, "A share in two revolutions is living to some purpose."

In the spring of 1791, Paine published the first part of "The Rights of Man" which he designed to carry the principles of the American revolution to Europe.

In the "The Rights of Man" Paine wrote:

> Government exists to guarantee to the individual that portion of his natural rights of which unaided he could not ensure himself. These rights, with respect to which all men are equal, are liberty, property, security, and resistance to oppression. Only a republican form of government can be trusted to maintain these rights; and the republic must have a written constitution, including a bill of rights; manhood suffrage, executive orders chosen for short terms and subjected to rotation in office, a judiciary not beyond ultimate control by the people, a legislative body popularly elected at regular intervals, and a citizenry undivided by artificial distinctions of birth and rank, by religious intolerance, by shocking economic inequalities.

What a great statement, Mr. President. "Such a republic," he argued, "will be well and cheaply governed for government is no farther necessary than to supply the few cases to which society and civilization are not conveniently competent."

Additionally, Thomas Paine always defended the right of men and women to worship and practice religion freely and in any form. Paine was raised a Quaker. However, throughout his adult life he was a devout Deist, like his peers George Washington, Ben Franklin and Thomas Jefferson. Paine affected the very founding of the United States of America. He was a fiery, head strong agitator, committed to the rights of individuals and the basic glory of the common man.

Paine gave American independence its rationale; he inspired a torn, cold army on the brink of defeat; he wrote to abolish slavery; he held the first post which later evolved into the Secretary of State; he participated in two revolutions defending he principles of liberty, nearly losing his life in the second, as well as risking his life in battle in the first. For Paine, human dignity was a natural right, not a privilege.

Maintaining his involvement in our Nation, Thomas Paine actively corresponded with his peers, like Thomas Jefferson and James Monroe, until he died in New York on June 8, 1809. His contribution to the founding and development of our country cannot be overstated. In truth, it is horribly understated. It is for this reason that Thomas Paine should be remembered with a monument to let us never forget this agitator for freedom. I want to quote President Kennedy, who in 1963 in then-West Berlin said Benjamin Franklin once said to Thomas Paine, the great American revolutionary, "Where freedom is, there is where I live." And Paine replied, "Where freedom is not, there is where I live, because no man or country can be really free unless all men and all countries are free."

Mr. President, I hope my colleagues in the Senate who have been so generous with their support will help us, and I know they will, in an effort to authorize the private sector to construct a fitting but modest memorial to this great patriot at no cost to the taxpayer.

Mr. President, I send to the desk the resolution on behalf of myself, Senators ADAMS, AKAKA, BOND, BOREN, BREAUX, BROWN, BURDICK, BURNS, COATS, COCHRAN, COHEN, CONRAD, CRAIG, CRANSTON, D'AMATO, DANFORTH, DASCHLE, DECONCINI, DODD, DOLE, DOMENICI, DURENBERGER, FOWLER, GARN, GORTON, GRASSLEY, HARKIN, HATCH, HATFIELD, HEFLIN, HELMS, HOLLINGS, INOUYE, JEFFORDS, KASSEBAUM, KASTEN, KENNEDY, LEVIN, LIEBERMAN, LOTT, LUGAR, MACK, MCCAIN, MCCONNELL, MIKULSKI, MURKOWSKI, NICKLES, NUNN, PACKWOOD, PELL, PRESSLER, REID, RIEGLE, ROBB, ROCKEFELLER, ROTH, RUDMAN, SANFORD, SARBANES, SEYMOUR, SHELBY, SIMON, SIMPSON, SMITH, SPECTER, STEVENS, THURMOND, WARNER, WELLSTONE, and WOFFORD.

Mr. President, these 71 Senators include 12 of the 16 members of the Senate Committee on Rules and Administration. I would like to pay special thanks to the distinguished Presiding Officer for adding his name to this effort.

Mr. SYMMS. I might say to my distinguished colleague in the chair, that probably what will happen once this is passed is that the Thomas Paine Association will be around for a contribution to help build this heroic statue.

I would like to thank the Hon. Nita Lowey of New York for her support and hard work on the House side. They have a very diverse, broad-based bipartisan support over there, I am told there are over 225 members.

There are some differences in the two bills, although the Paine Association has now asked, with the overwhelming support of the historical community that both houses support the Senate version.

Essentially, the thrust of the efforts in both houses is to build a private sector memorial in recognition of Thomas Paine. Ours is site specific to have it here on the grounds at the crossroads of Pennsylvania and Constitution Avenues.

I might say for those who are watching or listening or will read this RECORD, the reason for that is Thomas Paine was a primary influence on the authors of the Constitution of the State of Pennsylvania, and made the first call for our written Constitution. Additionally he published his most important work in Pennsylvania.

We have selected a very appropriate location on the Capitol grounds that would be under the jurisdiction of the Architect of the Capitol, as directed by Congress upon the adoption of this concurrent resolution. Also it will make it much easier to raise these private sector funds to build this monument if the Senate and House agree to place it at the junction of Constitution and Pennsylvania Avenues.

I also would like to say special thanks to David Henley, the local representative of the Thomas Paine Association for his endless research and volunteer lobbying efforts; Doug Cooper, President of the Thomas Paine National Memorial Association of New Rochelle, NY for his commitment to complete the project and keep the ideas of freedom alive; to Florence Stapleton, the past President of the Association, and current head of the Thomas Paine Readers Club, without whose vision and commitment the Paine Association would not be flourishing today; and to Dr. Chuck Howarth, from Boise, ID, who is the person who originally brought this to my attention over the years of our friendship that goes clear back to the early sixties and his personal interest, and scholarship of Paine. He is an ophthalmologist in practice, but he often lectures at local colleges and universities in my State and in that region on the importance in our history of this great American. Additionally, Mr. President, Trevor Norris of my staff has taken on this project with the "zeal of a convert", and I appreciate his effort in securing so much support of our colleagues and the academic community.

Mr. President, I ask unanimous consent that a packet of letters from institutions, from professors, chairs or presidents endorsing the Thomas Paine memorial legislation, coming from some 80 universities, be printed in the RECORD.

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

INSTITUTIONS WITH PROFESSORS, CHAIRS OR PRESIDENTS ENDORSING THE THOMAS PAINE MEMORIAL LEGISLATION, APRIL 9, 1992

American Historical Association—Washington, D.C. (President-Elect Tilly)
The American University—Washington, D.C.
Amherst College—Amherst, MA (Dr. Henry Steele Commager)
Arizona State University—Tempe, AZ (B.R. Burg and The Historian)
Arizona, University of—Tucson, AZ
Brown University—Providence, RI (Gordon Wood)
Buffalo, University of—Buffalo, NY
Brigham Young University—Provo, UT
California at Los Angeles, University of—Los Angeles, CA (Joyce Appleby)
Case Western Reserve University—Cleveland, OH
Chicago, University of—Chicago, IL
Cincinnati, University of—Cincinnati, OH
City University of New York—New York, NY (Arthur Schlesinger)
Colgate University—Hamilton, NY
Columbia University—New York, NY (Eric Foner, Pres-Elect O.A.H.)
Columbia University, City of New York—New York, NY
Connecticut, University of (State Historian, Dr. Christopher Collier)
Cornell Univerity—Ithaca, NY
Democracy, College of—Arlington, VA
Emory University—Atlanta, GA
First Unitarian Church of Cleveland—Shaker Heights, OH
Fordham University—Bronx, NY
Genesco, State University of New York—Genesco, NY
George Mason University—Fairfax, VA
George Washington, The Papers of—Charlottesville, VA
Georgetown College—Georgetown, KY
Governor, State of New York—Albany, NY
Hawaii at Manoa, University of—Honolulu, HI
Hunter College—New York, NY
Indiana Historical Society—Indianapolis, IN
Irish National Caucus—Washington, D.C.
James Madison Encyclopedia—(Prof Emeritus U.VA, Robert Rutland)
Kansas, University of—Lawrence, KS
Kentucky, University of—Lexington, KY
Kentucky, Wesleyan University—Owensboro, KY
London, University of—London, England (Claeys-Wash U. St. Louis)
Lander College—Greenwood, SC (Dr. J. Wilson—Co-Author, *Thomas Paine*)
Louisville, University of—Louisville, KY
Marquette Univeristy—Milwaukee, WI
Maryland at College Park, University of—College Park, MD
Maryland State Archives—Annapolis, MD
Massachusetts Institute of Technology—Cambridge, MA (Pauline Maier)
Memphis State University—Memphis, TN
Miami University—Oxford, OH
Murray State University—Murray, KY
New Jersey Archives, State of—Trenton, NJ
New Rochelle, City of—City Historian
New Rochelle, College of—New Rochelle, NY
New School for Social Research—New York, NY (Louise Tilly)
New York, City University of—New York, NY (David Hawke, Author: *PAINE*)
Oregon Historical Society—Portland, OR
Oregon, University of—Eugene, OR
Pace University—Pace Plaza, NY
Penn State University—University Park, PA
Pennsylvania, University of—Philadelphia, PA
Phi Alpha Theta—History Honor Society (Dr. D. Baird-Pepperdine)
Pittsburgh, University of—Pittsburgh, PA
Pittsburgh at Johnstown, University of—Johnstown, PA
President of the Organization of American Historians (Joyce Appleby)
Princeton University—Princeton, NJ
Rhode Island College—Providence, RI
Rhode Island, University of—Kingston, RI
Rochester, University of—Rochester, NY
Rutgers University—New Brunswick, NJ
Scranton, University of—Scranton, PA
Southbury, CT—James A. Rousmaniere, Selectman
St. Francis College—Ebensburg, PA
Stanford University—Stanford, CA
Syracuse University—Syracuse, NY
Tennessee, University of—Chattanooga, TN
United States Capitol Historical Society—Washington, D.C. (Hon. Fred Schwengel)
Utah State University—Logan, UT
Utah, University of—Salt Lake, UT
Vassar College—Poughkeepsie, NY
Virginia, University of—Charlottesville, VA
Washington University in St. Louis—St. Louis, MO
Wayne State University—Detroit, MI
Western Reserve Historical Society—Cleveland, OH
West Virginia University—Morgantown, WV
Wichita State University—Wichita, KS
Wisconsin—Madison, University of—Madison, WI
Yale University—New Haven, CT
York College—York, PA

THE AMERICAN UNIVERSITY,
Washington, DC, February 7, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I endorse your proposed legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

Paine deserves special recognition for his authorship of the revolutionary pamphlet *Common Sense. Common Sense* was the first major call for independence and a republic. As such, it was a remarkably progressive and forward-looking message for its day. Written and published in January, 1776, *Common Sense* helped galvanize the decision to turn resistance into a movement for independence and a republican system of popularly elected confederated state governments.

For this alone, Paine deserves to be remembered by the statue you propose.

Sincerely,

ROGER H. BROWN,
Chair and Professor,
Department of History.

AMHERST, MA, *April 4, 1992.*

Senator STEVE SYMMS,
Hart Senate Building, U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I take great pleasure in endorsing your legislation to allow the construction of a monument to Thomas Paine.

Amidst your laboring to gather endorsements for the project I take the liberty to remind you of the most powerful endorsement of Paine and his contributions to America's founding:

"It will be your glory to have steadily labored, and with as much effect as any man living, to bring about the greatest of revolutions." (Thomas Jefferson.)

Best Wishes.

HENRY STEELE COMMAGER.

ARIZONA STATE UNIVERSITY,
DEPARTMENT OF HISTORY,
Tempe, AZ, February 12, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I would like to offer my support for your efforts to establish a memorial to Thomas Paine in Washington, D.C. His pamphlet, *Common Sense*, was a catalyst for bringing colonial public opinion to the Patriot cause. Its importance can hardly be underestimated. Paine was truly one of our great revolutionary figures and, along with Jefferson, one of leading spokesmen defending Americans and American rights against British tyranny. He deserves to be honored in the capital of the nation he helped create.

Your proposal to erect a statue of Paine at the intersection of Constitution and Pennsylvania Avenues will be a worthy memorial to a great revolutionary leader.

Sincerely,

B.R. BURG,
Professor of Early
American History.

ARIZONA STATE UNIVERSITY,
Tempe, AZ, March 31, 1992.

Senator DENNIS D. DECONCINI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DECONCINI: This letter is to endorse Senator Symms' proposal to erect a statue memorializing Thomas Paine in Washington, DC., to be paid for by private subscription.

As editor of the scholarly history journal with the largest number of individual subscribers in the world today, with editorial officers at Arizona State University, I believe this historical recognition is meritorious.

This message will be conveyed to you by the hand of Trevor Norris, assistant to Senator Symms.

With best wishes to you in your current deliberations, I am,

Yours sincerely,

ROGER ADELSON,
Editor.

UNIVERSITY OF ARIZONA,
Tucson AZ, March 31, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: This letter is to register my support of proposed legislation to allow the Thomas Paine Memorial Foundation to place a memorial statue of Paine on the U.S. Capitol grounds near the intersection of Pennsylvania and Constitution avenues. That is a beautiful part of the Capitol grounds and a modest memorial to Paine there seems fitting given his role in the achievement of American independence.

Paine should have been recognized long before this. His *Common Sense* was of major significance in rousing American support for independence. While he denounced monarchy and urged the colonists to action, others debated the shape of our government to come. His ideas and stirring rhetoric helped persuaded many citizens to support the revolutionary movement. His other writings, *The American Crisis* and The Rights, of Man, developed his earlier ideas and added to the debate over independence and the sort of government the new nation should develop. Of all the significant figures of the revolutionary era, he is probably the least well-remembered, and he certainly deserves some recognition.

Sincerely yours,

ROGER L. NICHOLS,
Acting Department Head.

BROWN UNIVERSITY,
Providence, RI, February 14, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am happy to support legislation allowed private groups to erect a memorial to Thomas Paine. It is embarrassing to us as a nation to have delayed so long such a commemoration. Paine's *Common Sense* and his other writings were important to the American revolutionary cause. Because his contributions were entirely literary honoring Paine may get us to think again about the deplorable decay of our public rhetoric that has overspread us.

Sincerely,

GORDON WOOD,
Professor of History.

UNIVERSITY AT BUFFALO,
Buffalo, NY, February 13, 1992.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: This is to indicate my very strong support to establish a memorial to Thomas Paine on the grounds of the Capitol.

Paine was among the eighteenth century's most forceful advocate of democratic ideals. He played a decisive role in our history, and—far more than most of the founding fathers'—his ideas continue to resonate today.

Sincerely,

JONATHAN DEWALD,
Professor and Chair.

BRIGHAM YOUNG UNIVERSITY,
Provo, UT, March 20, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Please include my name among those endorsing your proposal that the intersection of constitution and Pennsylvania avenues be reserved for a privately funded memorial to Thomas Paine. In the courses that I have been teaching here for the past fifteen years, from the U.S. history survey to a graduate seminar on Revolutionary America, I stress Paine's importance and have my students read *Common Sense*. We need to leave behind those provincial years when Paine was dismissed as a filthy little atheist". He helped to turn a rebellion into a revolution; he expressed, in gritty and yet graceful prose, ideas that should stir anyone interested in fundamental rights and the necessity of representative government.

Sincerely,

NEIL L. YORK,
Associate Professor of History.

P.S.—I have sent notes to Senators Garn and Hatch, asking them to join you as cosponsors.

UNIVERSITY OF CALIFORNIA,
Los Angeles, March 6, 1992.

Senator ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: A memorial statue of Thomas Paine on the Capitol grounds of Washington, D.C. would be a most appropriate tribute to a man who embodies the revolutionary spirit which fired America's first patriots. Most contemporaries recognized that it was Paine who acted as the catalyst in turning colonial leaders from resistance to revolution in 1776. His stirring rhetoric in "Common Sense" bridged the gulf between social ranks and geographic regions and united the disparate peoples of the colonies behind a shared desire for independence. It was a quite remarkable achievement for a man who had been in the colonies less than three years. In the "Rights of Man" and the "Age of Reason" Paine produced compelling arguments for humane reform which have enthralled readers ever since. With a statue in our Nation's Capital, many young people will be stirred to learn who Paine was and to read the words that thrilled their nation's founders.

I hope very much that you will become a cosponsor of the bill which Senator Steve Symms will soon be re-introducing.

Yours sincerely,

JOYCE APPLEBY,
Professor of History,

CASE WESTERN RESERVE UNIVERSITY,
March 16, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: As an American historian for over thirty-five years I heartily support the long overdo recognition of the role of Thomas Paine in the American Revolution on the site that you are projecting. Virtually all of the most prominent founders of our country are honored near or on the mall, such as Washington and Jefferson, with the glaring exception of Thomas Paine who merits a memorial at the corner of Pennsylvania and Constitution Avenues.

Last year this omission was brought home to me. I am President of National History Day Incorporated which is a program for promoting the study of history in the schools. Over 500,000 students participate annually in the fifty states and the top winners of local and state contests come to College Park in Maryland to compete for prizes and awards in a variety of categories in June of each year. This last year the theme of the contests was "Rights in History" to celebrate the bicentennial of the Bill of Rights. Students in this contest while touring Washington looked in vain for a monument, statue or a plaque honoring the author of the American Crisis, Common Sense, The Rights of Man, and The Age of Reason. The author, who in 1776 galvanized Americans with electric phrases such as "These are the times that try men's souls * * * the summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country," it seems is not remembered.

Carl Becker, a historian who wrote a history of the Declaration of Independence, also wrote a famous biographical article on Thomas Paine in the *Dictionary of American Biography* at the end of which he said that "conceivably the United States of America might have become a free nation had Common Sense never been written. But even those who see history determined by economic and other physical, concrete forces can hardly deny that Common Sense helped to humanize and to concentrate such forces."

I applaud your efforts to give this recognition to Thomas Paine on the Capitol grounds and I am sure that every senator and every representative will feel the same.

Sincerely yours,

DAVID D. VAN TASSEL,
Benton Professor and Chair,
President, National History Day, Inc.

THE UNIVERSITY OF CHICAGO,
Chicago, IL, March 18, 1991.

Senator PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: I am writing in support of a proposal by the Thomas Paine National Historical Association to place a memorial to Thomas Paine on the Capitol grounds. The memorial would be paid for by private funds. I understand that the proposal has the sponsorship of more than half of the membership of the House of Representatives and that your support is important because of your membership on a key committee.

Thomas Paine was a crucial figure in the American Revolution, and it is surprising that no appropriate memorial to him stands in Washington. Paine's pamphlet, Common Sense was a key influence on the decision of both Congress and the American public to support independence in 1776, and his influence was felt at major turning points in the war with Britain.

Common Sense is a document I assign regularly to classes on the Revolution. I can tell

you from personal experience that its ideas retain their force and immediacy to this day.

I urge you to give serious consideration to this proposal.

Sincerely,

EDWARD M. COOK, Jr.,
Associate Professor of American History,
Dean of Students in the University.

UNIVERSITY OF CINCINNATI,
CINCINNATI, OH, *April 3, 1992.*

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

DEAR SENATOR GLENN: On behalf of the Department of History I heartily endorse the legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenue. I hope you will join Senator Symms of Idaho and assist in gaining Senate approval of this long overdue recognition of an individual whose impact in his pamphlet "Common Sense" on the American Revolution was comparable to "Uncle Tom's Cabin" on the American Civil War.

I wish to note also that Thomas Paine was rediscovered by a Cincinnati minister in the late nineteenth century. Paine had almost been forgotten until Moncure Conway wrote a biography of him in 1892. Today, Americans could honor him by erection of this memorial to the individual who issued the first major call for independence and the establishment of a republic.

Please do not hesitate to contact me for further information on this important historical figure.

Sincerely yours,

GENE D. LEWIS,
Professor and Head.

THE GRADUATE SCHOOL AND UNIVERSITY CENTER OF THE CITY UNIVERSITY OF NEW YORK,
March 19, 1992.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: Like every other historian, I am astonished that there is no memorial for Thomas Paine in the nation's capital; and I trust that Congress will take action in the near future to remedy this glaring omission.

Tom Paine, as you well know, was in effect an honorary Founding Father. He played a brilliant and vital role in awakening popular support for independence and thereafter in propagating the rights of man as a universal doctrine; and he deserves to be remembered by an age whose great animating forces are national independence and human rights.

The proposed site, which I understand to be on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues, seems eminently appropriate. After all, Paine wrote "Common Sense" while living in Pennsylvania, and the Constitution can be considered one of the fruits of his work.

As the preeminent scholar in the Senate, you are a natural to lead the fight to educate a new generation about Paine. The historical community hopes very much that you will join in co-sponsoring the Symms bill.

Yours ever,

ARTHUR SCHLESINGER, Jr.

COLGATE UNIVERSITY,
Hamilton, NY, February 21, 1992.

DEAR Senator Symms: The following letter was sent to Senators Moynihan and D'Amato.

Hon. ALBERT D'AMATO
Washington, DC.

DEAR SENATOR D'AMATO: I write to support the proposed legislation for a monument honoring revolutionary American war hero Thomas Paine to be placed at the corner of Pennsylvania and Constitution Avenues on the capitol grounds.

As an historian and teacher of early American history, I use Thomas Paine's work frequently and I'm often chagrined to find that students know little of this important figure. I believe that the proposed monument would go far to educating all Americans about Paine's importance.

I urge you strongly to support this measure.

Sincerely,

GRAHAM HODGES,
Associate Professor.

UNIVERSITY OF CALIFORNIA,
Los Angeles, March 6, 1992.

DEAR SENATOR MOYNIHAN: Despite the letterhead above, I am one of your constituents, since I normally live in New York City and teach at Columbia University. I am writing to urge you to support the proposal to place a statue of Thomas Paine on the Capitol grounds. As the author of a book on Paine's role in the American Revolution, I am perhaps more interested than most in this issue, but I hardly need to explain to you Paine's central importance in the struggle for American independence. More than any other individual, Paine galvanized the movement for separation from Britain, and in Common Sense and other writings, did so in a new political language, accessible to a far broader audience than eighteenth-century pamphleteers ordinarily addressed. Although he never held public office after independence was won, Paine ought to the viewed as one of our most important founding fathers, and as one of the few who pressed forward the democratization of American society as well as national independence. To me, it seems inexcusable that it has taken so long to memorialize him in Washington, and placing his bust near the Capitol would be an entirely appropriate way of honoring him, given his central role in the American Revolution.

I very much hope that you will be able to support this measure, and I think you for taking the time to consider this letter.

Sincerely,

ERIC FONER,
DeWitt Clinton Professor of History
Columbia University,
Visting Professor of History UCLA.

COLUMBIA UNIVERSITY,
New York, NY, March 28, 1992.

Senator AL D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I write to urge you support the initiative of Senator Steve Symms in the matter of erecting a memorial to Tom Paine on the Capitol Grounds site in Washington, D.C. I cannot imagine that you will fail to back this excellent piece of legislation.

Yours sincerely,

WILLAM V. HARRIS,
Department Chairman.

UNIVERSITY OF CONNECTICUT,
March 25, 1992.

Senator CHRISTOPHER DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: I write to urge you to support legislation to permit a statue honoring Thomas Paine to be constructed—with private funding—somewhere in the District. The junction of Pennsylvania and Constitution Avenues has been suggested as an appropriate site because Paine did most of his most important work in Pennsylvania and was a very early proponent of federal constitution.

Paine's principal contribution was in articulating in popular language the egalitarian and liberation theories that underlie so much of our nation's political thought and structure. He was, perhaps, our foremost political educator. A statute calling attention to him will cause thousands of students and adults to investigate his message and help renew America's commitment to the principles that inform our Revolution and Constitution.

I know I am joined by many of the leading scholars of the Revolutionary Era in urging enthusiastic support for this legislation, and trust you will give the matter serious consideration.

Sincerely,

CHRISTOPHER COLLIER,
Professor of History,

CORNELL UNIVERSITY,
Ithaca, NY, February 13, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I want you to know that I strongly support your bill to commission a monument to Tom Paine, and I also happen to feel that the site where a Constitution and Pennsylvania Avenues meet would be a splendid location.

Tom Paine was a remarkable visionary and activist. He did as much as anyone to help make U.S. independence possible. He has long deserved this honor.

Sincerely your,

MICHAEL KAMMEN,
Professor of American History and Culture.

P.S.—If you glance at my new book, "Mystic Chords of Memory" (Knopf), you will find due attention paid to Idaho. I did research in Boise when I lectured there, and in Pocatello, back in 1987.

THE COLLEGE OF DEMOCRACY,
Arlington, VA, March 11, 1992.

Hon. STEVE SYMMS,
U.S. Senator from Idaho, Senate Hart Building, Washington, DC.

DEAR SENATOR SYMMS: This is to inform you that we consider Thomas Paine to be one of our heroes of democracy. I strongly support the endeavor to construct an appropriate memorial to Thomas Paine on the ground of the United States Capitol at no cost to the taxpayer. It really should have been done long ago.

As we stated in our book, "The Evolution of a Democracy: This is Our Country, the United States of America," "in January 1776, Thomas Paine published arguments for separating the colonies from England in 100,000 copies of the pamphlet 'Common Sense.' He told his fellow Americans that the Colonies could become a great nation stretching across a continent and it made no sense to be in complete rebellion while professing full loyalty to the king." Less than six months later, the Continental Congress declared the Colonies free from England and dissolved all political relations.

This book is used in citizenship courses here as well as a means for people to increase their understanding and appreciation of our history. Similarly, it is beginning to be used in the developing democracies by people desiring to learn about democracy. Therefore, through it, the message of Paine's contribution to our country is reaching more people in the United States as well as in other countries.

A monument to Paine here would remind visitors to our capital city of the enduring significance of the written worked in a free society.

Sincerely,

WALTER E. BOEK, PHD.,
President (and President of the Washington Academy of Sciences).

EMORY UNIVERSITY,
Atlanta, GA, Apr. 2, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for all your efforts on behalf of the proposed Tom Paine Memorial. It is hard to believe that someone as important to the history of our country as Tom Paine has failed to earn some commemoration. Common Sense alone deserves the recognition of this nation. That he also helped to rally America in its darkest hour with the "Crisis" series and saved the State of Pennsylvania from near collapse added to his significance. His was a tireless voice for freedom and the dignity of the individual. He battled the evils of his age with fervor, intelligence, and devastating wit. And at every turn he rejected opportunities for personal aggrandizement in favor of the public good. He certainly is a model for our own age.

I must admit to being moderately surprised that any member of the Senate would want to build a memorial to this inveterate opponent of an upper house. Paine consistently battled what he saw as an undemocratic and aristocratic institution in favor of a unicameral legislature. But I am delighted you don't hold these views against him. I have faxed Senators Nunn and Fowler—and thanks for sending their fax number—and written my Representative, Ben Jones. I wish you the very best of luck in correcting this historic error.

Thank you for your time and attention.

Sincerely,

MICHAEL BELLESILES.

THE FIRST UNITARIAN CHURCH OF CLEVELAND,
Shaker Heights, OH.

Office of the Architect,
Capitol Building, Washington, DC.

DEAR MR. WHITE: It is my privilege to write to you to inform you that the Board of Trustees of the First Unitarian Church of Cleveland, located in Shaker Heights, wishes to be recorded as favoring the placement of a memorial honoring Thomas Paine at the intersection of Pennsylvania and Constitution Avenues in Washington, DC.

I might add that you are remembered fondly as the architect of our west wing, the Peterson Wing, which it is my understanding was dedicated in 1960 when you were with Dalton and Dalton. You may remember, too, that Mr. Calvin Dalton was on our Board in those years.

Thank you most sincerely for your favor of consideration.

Sincerely yours,

RICHARD S. HASTY, D. MIN.,
Interim Senior Minister.

FORDHAM UNIVERSITY,
Bronx, NY, Feb. 17, 1992.

Senator DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to ask you to support the proposed legislation of Senator Symms to authorize a statue of Thomas Paine on the grounds of the United States Capitol in Washington.

There can be little doubt that Paine was instrumental in the success of the movement for independence. His pamphlet Common Sense, designed to reach the "middling" folk as well as the highly educated elite, was a brilliant exercise in political rhetoric.

Moreover, Paine was one of the very few eighteenth-century thinkers who recognized that American women were second class citizens in a society that espoused egalitarian values—at least in theory. He spoke to his time and he speaks to ours, and I believe he should be honored in the manner that Sen. Symms proposes.

Sincerely yours,

ELAINE FORMAN CRANE,
Professor of History.

SUNY,
Geneseo, NY, Mar. 26, 1992.

Senator PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: Senator Steve Symms of Idaho is sponsoring a bill to permit the construction, using only private funds, of a memorial to Thomas Paine at the intersection of Pennsylvania Avenue and Constitution Avenue in our nation's capital. He has asked for my support for his project, and I am pleased to give it. I urge you to support it as well.

As a historian I am very much aware of the importance of memorials in terms of "giving messages" about what a people "stands for." For example, I am a historian of the French Revolution (in which Paine was involved, to some extent). I think that it is significant that in Paris there are statues of Revolutionary moderates such as Lafayette and charismatic patriots such as Danton, but there are none to the extreme radicals such as Robespierre. I believe that it would be good for the American people to give the message that we support Paine: as a figure in our Revolution but especially as "the first public advocate for the abolition of slavery in North America" (to quote Senator Symms).

Thank you for considering my appeal to you. I hope that you will, indeed, support the efforts of Senator Symms.

Sincerely,

CHARLES R. BAILEY,
Professor and Chair.

GEORGE MASON UNIVERSITY,
Fairfax, VA, Jan. 6, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR HONORABLE MR. SYMMS: Thank you very much for your letter of December 11 regarding the proposed initiative to construct a memorial to Thomas Paine on the grounds of the United States Capitol. On behalf of the Department of History at George Mason University, we heartily support your endeavor and wish it every success.

With best wishes,

Cordially,

MARION F. DESHMUKH,
Chair, Department of History.

UNIVERSITY OF VIRGINIA,
Charlottesville, VA, Mar. 4, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: No figure in our early history as deserving as Thomas Paine remains without public recognition in the nation's capital. Without the publication of his Common Sense in 1776 it is hard to conceive how the American Revolution could have come when and how it did. Perhaps the erection of an appropriate statue in Washington by a private organization will serve to remind some how words put at the service of a noble cause can transform the field for political action.

Sincerely yours,

W.W. ABBOT,
Professor of History.

GEORGETOWN COLLEGE,
Georgetown, KY, Apr. 3, 1992.

TO: SENATOR S. SYMMS.

Lendsay Apple.

As an American historian I wholeheartedly support the effort to honor Thomas Paine with a statue in our Nation's Capital. The site your letter suggests across from the Labor Department seems particularly appropriate given Paines own origins and beliefs. If my endorsement is useful please share it with our Senator from Kentucky, The Honorable Wendell Ford.

STATE OF NEW YORK,
Albany, NY, Mar. 16, 1992.

Hon. PATRICK DANIEL MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: I am writing to express my strong support for proposed legislation to authorize construction of a monument to Thomas Paine in the District of Columbia.

Along with Washington, Jefferson and Lincoln, Thomas Paine left his imprint on the values that are America. The first to call for an end to slavery and a declaration of independence, Paine shared a vision of freedom and human rights with the world that continues to be the standard today.

Senate legislation similar to that sponsored by Nita Lowey in the House of Representatives will provide Thomas Paine with a fitting tribute that will remind all Americans of his vast contribution to the creation of our country.

Sincerely,

MARIO M. CUOMO.

UNIVERSITY OF HAWAII AT MANOA, COLLEGE OF ARTS AND HUMANITIES,
Honolulu, HA, March 27, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am happy to endorse your proposal to build a memorial to Tom Paine. A modest edifice on public land at Pennsylvania and Constitution Avenues in Washington, and built with private funds, seems entirely appropriate.

Tom Paine played a pivotal role in turning American colonials—they had begun to call themselves "Americans"—away from the institution of monarchy as well as George III and his policies. As you know, the natural rights Paine asserted are just as important today as when he enunciated them in the eighteenth century.

I am happy also that Nita Lowcy's bill has broad bipartisan support in the House and assume that will be the case in the Senate as well.

Sincerely,

CEDRIC B. COWING,
Professor.

HUNTER COLLEGE OF THE
CITY UNIVERSITY OF NEW YORK,
New York, NY, February 20, 1992.

Senator ALPHONSE D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I enthusiastically support the creation of a memorial in Washington D.C. to the great eighteenth century patriot Thomas Paine. Paine was a great figure, not only in the United States where his pamphlet "Common Sense" helped crystalize public conviction of the need for American independence from Great Britain, but he was a great figure in the democratic movements in both England and France. In England his pamphlet "The Rights of Man," parts one and two, publicized the advantage of a written constitution and probably constituted one of the foremost influences on the creation of a democratic political movement in England. On all scores a public tribute to Thomas Paine is long overdue. I urge support of Senator Symms' bill.

Sincerely,

NAOMI C. MILLER,
Professor and Chairperson.

INDIANA HISTORICAL SOCIETY,
Indianapolis, IN, March 6, 1992.

Senator RICHARD LUGAR,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: Your Senate colleague, Steve Symms of Idaho (a state where I taught for a decade), has asked for my support and endorsement for the erection of a memorial to Tom Paine on the grounds of the U.S. Capitol. The modest memorial which he proposes is to be funded by private money so there is to be no cost to the taxpayer.

What is needed is legislation allowing this to take place with certain "protections" built in.

There are, of course, many strands to the heritage of this nation. Tom Paine is a legitimate part of our national heritage. He represents a point on the political spectrum that not all of the citizens of this nation are comfortable with. Yet, all fair-minded Americans must conclude that he played an important role in the collective decision for independence.

Many of Paine's phrases roll off the tongue in the political dialogues even of our own day. For me, the importance of Tom Paine resides in the use of logic and language in the cause of American Independence and in asserting the basic rights of man. The simple question, "Should an island rule a continent?" Is hard to cast off as irrelevant.

A monument to Thomas Paine on the grounds of our nation's Capitol would be a fitting tribute to the man and what he stood for.

Sincerely yours,

PETER T. HARSTAD,
Executive Director.

IRISH NATIONAL CAUCUS, INC.,
December 10, 1991.

Hon. (Name),
House of Representatives, Washington, DC.

DEAR SENATOR: On behalf of its many members in the State of Pennsylvania, the Irish National Caucus urges you to cosponsor H.R. 1628—the Thomas Paine monument legislation.

The Bill is introduced by Representative Nita M. Lowey (D-NY) (contact David Seldin at x6506 for further information).

To date 172 Members have cosponsored this legislation.

As you know, Thomas Paine did some of his finest work while he lived in Pennsylvania.

Not only was Thomas Paine a great advocate of American freedom, liberty and democracy, but he also championed the same causes for Ireland.

That is why the Irish National Caucus is in total support of H.R. 1628.

Can we tell our members that they can count on your support?

Please let us know at your earliest convenience.

Sincerely,

Father SEAN MCMANUS,
President.

JAMES MADISON ENCYCLOPEDIA,
New York, NY, March 26, 1992.

Hon. JOHN WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: As you may know, a concerted effort is being made to establish a permanent memorial on the Capitol grounds in honor of Thomas Paine. Senator Symms is sponsoring the appropriate legislation, and as a Virginian and historian of the American Revolution I hope you will assist him in the endeavor.

You are doubtless aware that Paine came to this country at the urging of Benjamin Franklin, and his great essay, "Common Sense," was one of the most influential pamphlets in history. At a critical time, the Paine essay made thousands of Americans see the futility of a connection with Great Britain (Washington saw this and commented on it early in 1776). For that alone, he deserves recognition of the highest order.

Please join Senator Symms to make this memorial a reality.

Your constituent,

ROBERT A. RUTLAND,
Professor of History Emeritus,
University of Virginia.

THE UNIVERSITY OF KANSAS,
Lawrence, KS, January 6, 1992.

Senator ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I pass on for your consideration the enclosed letter from Senator Steve Symms. I endorse the Thomas Paine project; as a historian, I think it entirely appropriate.

With best regards.

Yours sincerely,

DANIEL H. BAYS,
Professor and Chairman.

UNIVERSITY OF KENTUCKY,
Lexington, KY, February 13, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Let me strongly endorse the proposed legislation to authorize placing a statue of Thomas Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

It is a shame that the author of "Common Sense," the pivotal document in the clarion call for independence in 1776, has so little public recognition. Paine's courageous words and ideas provided nothing less than the motive force for the decision to seek independence in 1776. It would be a great—and long overdue—public service to commemorate in this way Paine's enormously important role in the revolutionary struggle.

I wish this project all the success in the world.

DANIEL BLAKE SMITH,
Associate Professor of History.

ROYAL HOLLOWAY AND
BEDFORD NEW COLLEGE,
March 6, 1992.

DEAR SENATOR BOND: As a Missouri resident temporarily overseas, I am writing to you about legislation for the proposed memorial to Thomas Paine which Senator Steve Symms is about to introduce before Congress.

As a historian and the author of a book on Thomas Paine, and editor of a forthcoming new edition of his famous "Right of Man," I am excited at the prospect that one of the most important creators of American independence will finally be honored in this way. Thomas Paine's "Common Sense" (1776) was the main pamphlet to rouse the colonists on the side of independence. Paine became close friends with Washington; Jefferson and other founding fathers. He fought during the Revolutionary War, when his letters known as "The American Crisis" had a tremendous effect in rallying the colonial army. Paine was one of independent America's first advocates for the abolition of slavery and for equal rights for women and men alike. Moreover, he was the most important popularizer of the American constitutional model in nineteenth century Europe, through the "Rights of Man."

Despite these great contributions to America's heritage, Paine has lacked the recognition he deserves. I urge you to support Senator Symms' efforts to have a monument to Paine erected on the grounds of the Capitol. There are statues of him already in both England and France, and it is time that we too acknowledged his efforts on our behalf.

Yours sincerely,

GREGORY CLAEYS,
Lecturer in History.

UNIVERSITY OF LOUISVILLE,
Louisville, KY, April 1, 1992.

Senator WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I write on behalf of legislation to authorize the construction of a privately funded memorial to Thomas Paine on public land located at the intersection of Pennsylvania and Constitution Avenues in Washington, DC. Such an authorization would appropriately acknowledge Paine's important contribution to the creation of the United States of America. I have discussed this topic with other individuals in Louisville, and everyone with whom I have spoken also supports the project. I hope that you will co-sponsor or otherwise support it as well.

Sincerely,

JAMES MORRILL,
Professor of History.

MARQUETTE UNIVERSITY,
Milwaukee, WI, March 30, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: In reply to your letter of 16 March 1992, just let me say that I do enthusiastically support a modest memorial to Thomas Paine to be built on the grounds of the U.S. Capitol. I have always been intrigued with Paine and with his contribution to our republican experiment, for reasons spelled out in more detail in the hand-written letters I have today sent to Senators Kohl and Kasten of Wisconsin. (Copies of these letters are attached hereto.) Over the chasm of the years, Tom Paine still teaches us, and a memorial in his honor would serve to remind us as Americans of important lessons that we have as yet only imperfectly learned. With every good wish, I am

Yours very truly,

ROBERT P. HAY.

UNIVERSITY OF MARYLAND
AT COLLEGE PARK,
January 24, 1992.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: I am writing to urge you to become an original co-sponsor of legislation that Senator Steve Symms will soon introduce to allow the Thomas Paine USA Memorial Association to erect a statue of one of American history's seminal heroes.

Thomas Paine is rightfully judged an eloquent spokesman for human rights, a cause that I know ranks high on your list of priorities. Although Paine authored the American Revolution's most important pamphlet, "Common Sense," published early in 1776, he is perhaps best remembered for the stirring language he used to rally the Continental army during the darkest moments of the War for Independence: "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country." Paine's ringing words so moved the commanders of the Revolutionary forces that they ordered them read to the troops in every encampment. Nor did Thomas Paine's championship of human rights end with the signing of the treaty of Paris in 1783. He later went to France to support that nation's struggle against monarchy, and it was there in 1791–1792 that he wrote his inspiring defense of republican government, "The Rights of Man."

It is my understanding that the Thomas Paine USA Memorial Association proposes to pay for the cost of erecting a monument near the Capitol of the United States. I cannot imagine a more appropriate setting for commemorating a man who surely ranks as one of the greatest advocates of republican government in modern history.

Sincerly yours,

RONALD HOFFMAN,
Associate Professor.

MARYLAND STATE ARCHIVES,
Annapolis, MD, January 28, 1992.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: Senator Steve Symms has written about his bill to provide for the construction of a memorial to Thomas Paine on the grounds of the U.S. Capitol. The bill Senator Symms plans to introduce purportedly provides for the monument to be funded from the private sector and permits the Architect of the Capitol to approve the design.

Senator Symms has asked for my enforsement of this project to memorialize Thomas Paine. While I cannot speak to the merits of the monument's design or its placement on the Capitol grounds, I can testify to the importance of Paine in our nation's history.

When Thomas Paine's "Common Sense" appeared in January 1776, it served as a catalyst for changing colonial disaffection with Britain into a concerted movement for independence. His consistent defense of the rights of the individual—from his advocacy of the abolition of slavery to his authorship of "The Rights of Man"—distinguish him as a man of exceptional liberality for his generation.

A memorial to Thomas Paine would help remind visitors to the U.S. Capitol of the great debt this country owes to this impecunious, immigrant stay-maker who changed history not because of his wealth, power, or position, but because of his firm conviction in the value of human freedom, which he expressed with force and originality through the printed word.

Sincerely yours,

EDWARD C. PAPENFUSE,
State Archivist and
Commissioner of Land Patents.

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
Cambridge, MA, February 26, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC

DEAR SENATOR SYMMS: I have, as suggested in your letter of February 12, written to Senators Kennedy and Kerry asking their support for the Paine memorial. I enclose a copy of my letter.

Obviously, I support your proposal enthusiastically. It is long overdue.

Sincerely,

PAULINE MAIER,
WILLIAM R. KENAN, Jr.,
Professor of American
History.

MEMPHIS STATE UNIVERSITY,
Memphis, TN, April 1, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am glad to endorse your proposed legislation to place a memorial to Thomas Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues. I was surprised to learn that there is no memorial to him in Washington; he did so much to further the idea of American independence that it is entirely fitting that the nation's capital should have a memorial to him.

I am writing to Senators Gore and Sasser to urge them to support your proposed legislation.

Yours sincerely,

MAURICE A. CROUSE,
Professor of History.

MIAMI UNIVERSITY,
Oxford, OH, April 6, 1992.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: I write to endorse enthusiastically the legislation proposed by Senator Steve Symms of Idaho to authorize the construction of a statute of Thomas Paine at the intersection of Pennsylvania and Constitution Avenues.

Paine is perhaps the most neglected of the men who took a leading part in establishing our democratic republic. He deserves a memorial, if only for writing "Common Sense," one of the most eloquent and influential explanations of the assumptions underlying the American form of government. Here is a man who was truly of the people; to honor him is to honor the working men and women whose efforts were as important to the success of the American Revolution as those of gentleman such as Washington and Jefferson. Nothing could be more in keeping with the spirit of our revolution than a memorial to a man of relatively humble background in the midst of our great monuments to the aristocrats of his age.

I trust that you will join with Senator Symms in sponsoring this important legislation.

Sincerely,

ANDREW CAYTON,
Associate Professor.

MURRAY STATE UNIVERSITY,
Murray, KY, April 3, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I enthusiastically support your proposed legislation to authorize the Thomas Paine Memorial Foundation to erect a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution.

Thomas Paine is eminently deserving of recognition for the critical role he played in arousing and giving direction to popular support for the American Revolution. "Common Sense" and "The Crisis" gave focus and renewed purpose to a cause that was at the time faltering. Without Paine's contributions, the outcome of the Revolution might well have been quite different.

Together with other historians, I applaud your efforts to press this project to completion.

Sincerely yours,

JAMES W. HAMMACK, Jr.,
Chair, Department of History.

STATE OF NEW JERSEY,
Trenton, NJ, February 4, 1992.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am pleased to enclose copies of my correspondence to New Jersey Senators Bradley and Lautenberg in support of your proposed legislation to erect a memorial to Thomas Paine on the Capitol grounds.

Paine's role in the struggle for American independence was critically important to New Jersey's revolutionary leaders, citizens, and soldiers. I hope that my letters to our Senators convey that message adequately.

I wish you all success in your effort to recognize Paine in this important way.

Sincerely yours,

KARL J. NIEDERER,
Chief of Archives.

STATE OF NEW JERSEY,
Trenton, NJ, February 4, 1992.

Hon. BILL BRADLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRADLEY: I urge you to join Idaho Senator Steve Symms in cosponsoring legislation that will authorize the construction of a memorial honoring Thomas Paine on the Capitol grounds in Washington.

Although British-born, Thomas Paine's political philosophy and writings exerted a tremendous influence on the founders of the United States, including preeminent New Jersey advocates for independence such as William Livingston, our first state Governor; and William Paterson, Governor, U.S. Senator, and U.S. Supreme Court Justice. But Paine's ideas about the proper function and purpose of government equally inspired many common citizens and soldiers in revolutionary New Jersey. His words energized the Continental Army precisely when their fortunes had reached low ebb: in December 1776, just prior to the Battle of Trenton, now regarded by many as the turning point in the war for independence.

As Paine himself would have appreciated, the memorial envisaged by Senator Symms will be built at no cost to the taxpayers.

Your favorable consideration of this legislation will be appreciated, I am sure, by all citizens of New Jersey and of the United States.

Sincerely yours,

KARL J. NIEDERER,
Chief of Archives.

COLLEGE OF NEW ROCHELLE,
New Rochelle, NY, February 19, 1992.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I endorse your proposed legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

Paine deserves special recognition for his authorship of the revolutionary pamphlet "Common Sense." "Common Sense" was the first major call for independence and a republic. As such, it was a remarkably progressive and forward-looking message for its day. Written and published in January 1776, "Common Sense" helped galvanize the decision to turn resistance into a movement for independence and a republican system of popularly elected confederated state governments.

For this alone, Paine deserves to be remembered by the statue you propose.

Sincerely,

DOROTHY ANN KELLY, O.S.U.,
President.

CITY OF NEW ROCHELLE,
New York, NY, March 31, 1992.

Hon. DANIEL P. MOYNIHAN,
Senator from New York State, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR MOYNIHAN: I have been informed that Senator Steve Symms, of Idaho, has introduced legislation to permit the private sector to construct a memorial to Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues in Washington, near the Capitol.

Under terms of the legislation the memorial is to be in accord with the area's beauty and design. It is to be made possible through voluntary contributions at no expense to the taxpayers.

As an educator, a student of history and a respected public official, I need not review for you the many contributions Paine made, not only to the revolutionary cause but to the rights of man in general.

I hope earnestly, therefore, that you along with Senator D'Amato will find it expedient to co-sponsor necessary legislation in the Senate to make possible significant recognition of Thomas Paine in the Nation's capital.

Sincerely yours,

THOMAS A. HOCTOR.

CENTER FOR ADVANCED STUDY
IN THE BEHAVIORAL SCIENCES,
Stanford, CA, March 12, 1992.

Senator STEVEN SYMMS,
Senate Hart Building,
Washington, DC.

Senator STEVEN SYMMS: Yesterday I sent the following telegram to my Senator, Daniel Patrick Moynihan (I am a permanent resident of New York, here on academic leave until June, 1992): I endorse proposal for memorial statue of Tom Paine to be located at intersection Pennsylvania and Constitution Avenues on Capitol grounds—a fitting location for an advocate of democratic revolution, constitutional government and human rights.

May I express my enthusiastic support to you as well for proposing and promoting this long overdue tribute to a man of high ideals, inspired principles, and a powerful pen.

With best wishes for the success of your project,

Yours sincerely,

LOUISE A. TILLY,
Professor of History and Sociology.

MADISON, CT, *March 16, 1992.*

DEAR SENATOR SYMMS: Paine deserves better than he has received. John Adams predicted no statues would be erected to him; he was wrong, of course, but one is still due to Thomas Paine. His pamphlet Common Sense brought discusion of independence from behind closed doors into the open. His "Crisis" papers lifted the spirits of many who faltered. I strongly support the legislation you propose to authorize a memorial to Paine.

Sincerely,

DAVID F. HAWKE,
Emeritus professor,
City University of New York.

OREGON HISTORICAL SOCIETY,
Portland, OR, February 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: As you requested in your January 23 letter, I am sending you copies of my letters to Senators Packwood and Hatfield encouraging them to support your effort of raising a memorial to Thomas Paine. I wish you the best of luck in your endeavor.

Sincerely,

CHET ORLOFF,
Executive Director.

UNIVERSITY OF OREGON,
March 20, 1992.

Senator MARK HATFIELD,
U.S. Senate, 711 Hart, Washington, DC.

DEAR SENATOR HATFIELD: Knowing of your interest in American history, I ask that you become a co-sponsor of legislation proposed by Senator Steve Symms to permit the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

I was surprised to learn that there is no memorial to Paine in our nation's capital. I am a Burkean myself! But there is no doubt that Paine deserves recognition for his historic championing and philosophical defense of liberty and of a written constitution. The suggested site for a memorial, at Pennsylvania and Constitution, is certainly an appropriate location.

I am sending a copy of this letter to my former student and your long-time legislative assistant, Dean Lon Fendall. Lon may wish to add his endorsement to those of many distinguished historians who support the proposed action.

With best wishes,

Cordially,

PAUL S. HOLBO,
Professor of History, Vice
Provost for Academic Affairs.

UNIVERSITY OF OREGON,
Eugene, OR, February 10, 1992.

Senator MARK HATFIELD,
U.S. Senate, Washington DC.

DEAR SENATOR HATFIELD, I am writing to ask you to support the proposed legislation of Senator SYMMS of Idaho to authorize the Thomas Paine Memorial Foundation to place a statue of Thomas Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

As you know Thomas Paine deserves special recognition for authorship of the Revolutionary pamphlet Common Sense, which was the first major call for independence and a republic. A pivotal figure in the years leading up to the Declaration of Independence from Great Britain, Paine deserves to be honored in some form. I am surprised that it has not been done before.

Please help this cause in any way that you can.

Sincerely,

MAVIS MATE,
Professor and Department Head.

PACE UNIVERSITY,
New York, February 17, 1992.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington DC.

DEAR SENATOR MOYNIHAN, I am writing to encourage you to support the proposed memorial to Thomas Paine on the Capitol grounds. As a former resident of Bethesda, I am well aware that monument space in the District is scarce and that only the most significant figures in American history deserve such a prominent place. From my knowledge of colonial and revolutionary American history, I can attest that Tom Paine is worthy of such recognition.

Paine's life reflected a commitment to democratic principles as well as a talent for translating the disembodied political rhetoric of the era into a language that convinced and mobilized the ordinary man. His pamphlet Common Sense not only altered the attitudes of ordinary tradesmen and artisans in favor of independence but also helped generate the political momentum that produced the highly democratic Pennsylvania Constitution of 1776. His political thought continued to advance even after this seminal contribution, as 1780s saw him opposing price controls, promoting a national bank, and advocating The Rights of Man in the French Revolution. Paine's contribution was so significant that I assign Columbia professor Eric Foner's Tom Paine and Revolutionary America for my seminar on the American Revolution, the book from which much of this paragraph is drawn.

Before you became a Senator, you were a scholar; I remember as a high school debater reading the Moynihan and Mosteller report on equal educational opportunity. As a politician, you have consistently raised the level of debate. Therefore, it would be most fitting for you to support a memorial to a democrat whose contributions to America scholars recognize and to an author whose rhetoric changed the political debate forever.

Sincerely yours,

WILLIAM M. OFFUTT,
Assistant Professor of History.

PENN STATE,
DEPARTMENT OF HISTORY,
University Park, PA, February 27, 1992.

Hon. STEVEN SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I would like to express my support for the placement of a modest memorial to Thomas Paine on the grounds of the national Capitol in Washington, D.C. Paine played a crucial role in the struggle for American independence from Great Britain, and I believe such a memorial would be entirely consistent with other monuments to revolutionary era figures in Washington.

It is my understanding that such a monument currently is under consideration—and that it would be funded entirely by private monies and subject to approval by the Architect of the Capitol. I hope you will look favorably on this project.

Sincerely yours,

GARY W. GALLAGHER,
Professor and Head,
Department of History.

UNIVERSITY OF PENNSYLVANIA,
SCHOOL OF ARTS AND SCIENCES,
Philadelphia, PA, February 11, 1992.

Senator STEVEN SYMMS,
509 Senate Hart Building, Washington, DC.

DEAR SENATOR SYMMS: I am pleased to respond to your request for support for the project to construct a memorial to Tom Paine on the grounds of the U.S. Capitol. As the author of several books on the American revolutionary era and as a professor who has taught graduate and undergraduate courses on the Revolution at the University of Pennsylvania for the past twenty-three years, I have been in a reasonably good position to assess Paine's contributions to our revolutionary and democratic heritage. My appreciation of Paine's contributions to our American heritage has steadily increased over the course of my years of study and teaching.

Paine is of course most famous for his stunningly influential call for American separation from Great Britain in Common Sense. That pamphlet's devastating attack on the institution of monarchy, its chronicle of British misdeeds, and its invocation of natural rights philosophy as a justification for independence were all enormously influential in moving Americans toward the fateful step of independence. Perhaps more important, however, Common Sense provided Americans with a vision for a democratic future. When Paine wrote, in contemplation of the challenge of independence, that "The birthday of a new world is at hand, and a race of men, perhaps as numerous as all Europe contains, are to receive their portion of freedom," he began to sketch out a vision of that "new world" that was explicitly democratic and egalitarian, a vision both strikingly different from that which had governed the world in preceding centuries and strikingly similar to that hopeful vision that is sweeping over much of our world—in the former Soviet Union, in Eastern and Central Europe, and in Africa—in the late twentieth century.

Paine was a visionary and a publicist, not a politician. He would not stay on the American scene long enough to play the sort of role that Washington or Jefferson played in building our new nation. But Paine's vision was an extraordinarily hopeful and, as it turned out, an extraordinarily prescient one. His contributions to our democratic heritage do, in my judgment, make him worthy of a memorial in our nation's capital.

Sincerely,

RICHARD R. BEEMAN.

PHI ALPHA THETA, INTERNATIONAL
HONOR SOCIETY IN HISTORY,
Allentown, PA, March 20, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I was delighted to learn that you have reintroduced legislation that would allow construction of a memorial to Thomas Paine on the grounds of the U.S. Capitol. As you well know, there is no appropriate memorial for Paine in Washington, D.C. That is most unfortunate. Had it not been for the timely appearance of Paine's Common Sense in the winter of 1775 the Continental Congress might never have declared American independence. Equally important is that his vision of human rights influenced and inspired generations of reformers hoping to abolish slavery, secure division of church and state, and gain political and legal equality for women. Paine, of course, had serious reservations about formal religion, but that was not unique in an age much committed to rationalism. Nor should those views preclude him being recognized appropriately, even at this late date, for his contributions to independence and human rights. For that reason, I hope that your legislative efforts are successful.

Although I am not authorized to speak for them, you may be sure that the 740 chapters of Phi Alpha Theta and its 180,000 initiates doubtlessly endorse your proposal as well.

With every good wish, I am

Sincerely,

W. DAVID BAIRD,
Howard A. White Professor of History.

UNIVERSITY OF PITTSBURGH,
DEPARTMENT OF HISTORY,
February 24, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for yours of 20 February 1992, soliciting my response to your efforts to secure a memorial honoring Thomas Paine. As the author of a book on Massachusetts politics during the 1780s, as a professor who has taught both graduates and undergraduate students about the American Revolution, as chair of the Department of History, and as secretary of our regional Historical Society of Western Pennsylvania, I have been aware of Paine's contribution to the formation of our republic for many years. Indeed, my first reaction to your request was one of surprise that no memorial to Tom Paine has yet been erected in our national capital.

His Common Sense was one of the first and certainly at the time the most effective call for independence and the creation of a new republic. His activity and influence in and on both the American and French Revolutions made him into one of the intellectual founders of our combination of democracy and republicanism that now seems to be sweeping the entire world. Paine was an extraordinary man. He belongs in our pantheon of Revolutionary heroes. His monument is long overdue.

Sincerely yours,

VAN BECK HALL,
Chair, Department of History.

UNIVERSITY OF PITTSBURGH,
Johnstown, PA, March 12, 1992.

Mr. GEORGE M. WHITE,
Architect of the Capitol,
U.S. Capitol, Washington, DC.

DEAR MR. WHITE: I spoke briefly with Barbara Wolanin when I was in Washington yesterday, and I am writing to you at her suggestion.

My inquiry is about plans which, I understand, are forming to construct a memorial statue to Thomas Paine on the Capitol grounds. I am told not only that this falls under your jurisdiction but also that, quite properly, Senators and Representatives will rely upon the advice of your office concerning the design of any such monument before giving their support.

I am sure you recognize that many professional historians will be very enthusiastic about erecting a memorial to Paine. In fact, when the Organization of American Historians meets in Chicago a few weeks from now, we will be considering making an official endorsement of the project. So, if you now have any plans or thoughts on this, whether formal or merely preliminary, could you give me an idea of them?

Thanks for taking a little time on my request.

Sincerely,

ROBERT W. MATSON,
Associate Professor of History.

PRINCETON UNIVERSITY,
DEPARTMENT OF HISTORY,
February 20, 1992.

Senator STEVE SYMMS,
U.S. Senate, 509 Senate Hart Building, Washington, DC.

DEAR SENATOR SYMMS: Please consider me a wholehearted supporter of the proposed memorial to honor Thomas Paine.

I need not restate all of the reasons why such a memorial in the nation's capital is long overdue. No single patriot did as much to galvanize popular support for the American Revolution as Paine did, in *Common Sense* and *The Crisis*. And no writer did more, at the close of the eighteenth century, to proclaim the universality of human rights. He has been memorialized in Paris, as well as in Thetford, his place of birth in England. It is time for him to be honored in the capital of the nation where he did his greatest work.

It is, or course, important that the memorial will not come at any expense to the taxpayer. (Paine, who despised the ways that state parasites enriched themselves at the people's expense, would have approved.) Even more appropriate is the proposed site, at the corner of Pennsylvania and Constitution Avenues. It was, after all, in Pennsylvania that Paine was centered during his most glorious American period. And as early as 1776, he was a proponent for a strong federal union—an idea which led him to support the ratification of the U.S. Constitution, despite his misgivings about some of the framers' handiwork.

Let me congratulate you for having pushed the project this far. I am contacting Senator Bradley and Lautenberg, encouraging them to join in.

Please do not hesitate to contact me if I can be of any further assistance in this matter.

Yours sincerely,

SEAN WILENTZ,
Professor of History.

THE WHITE HOUSE,
Washington, DC, January 12, 1987.

I am delighted to send greetings to the members of The Thomas Paine National Historical Association as you celebrate the 250th anniversary of the birth of your organization's namesake.

In the bleak December of 1776, Paine wrote, "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman."

Among his many forceful and cogent writings, it is perhaps by these words that Americans best remember Paine. And with good reason. They provided invaluable inspiration for the men of the Continental Army at a time when the American Revolution seemed in danger of being crushed.

But Paine did not just talk a good fight. He labored long and tirelessly to raise funds and equipment for the colonial forces, even to the point of impoverishing himself, fulfilling his own words that, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

Tom Paine deserves our tribute above all for his eloquent and timeless defense of the value of freedom. In this age in which some people question whether any value is worth great sacrifice, whether any ideal is worth fighting for, Paine reminds us that a free society is well worth whatever price must be paid to achieve and preserve it.

I commend your Association for keeping alive the spirit of this great champion of

human freedom, and I join you in honoring him. You have my best wishes for a memorable celebration.

God bless you.

RONALD REAGAN.

UNIVERSITY OF RHODE ISLAND,
Kingston, RI, April 3, 1992.

Senator CLAIBORNE PELL,
U.S. Senate, Washington, DC

DEAR SENATOR PELL: I am writing to request your support of Senator Steve Symms' efforts to have a memorial to Thomas Paine built, with private funding, at the intersection of Pennsylvania and Constitution Avenues.

As an astute student and supporter of the study of American history, you know fully the importance that Paine had in our historical past. Yet, there is no public display of gratitude for his efforts in achieving American independence and liberty. I would greatly appreciate any and all support you could give to Senator Symms' legislation.

Sincerely,

JOEL A. COHEN,
Professor and Former Chair (1984–1991).

RHODE ISLAND COLLEGE,
Providence, RI, April 1, 1992.

Senator STEVEN SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I endorse your proposed bill to authorize the Thomas Paine Memorial Foundation to place a statue of Tom Paine at the intersection of Pennsylvania and Constitution Avenues. Such a memorial is long overdue.

Practically every school child learns of Thomas Paine and his "Common Sense," and it is surprising that he has not been given a place in the capital of the nation he helped to create. He wrote what most historians regard as one of the truly influential political tracts in American history. We know that "Common Sense" changed the minds of many Americans because we have their testimony, beginning with George Washington himself. Although Washington was already in command of the Continental forces outside of Boston, he had not yet brought himself to support independence, a complete break with the mother country. But, when he read Paine's tract, he was converted to full independence.

Best wishes in your effort.

Sincerely,

J. STANLEY LEMONS,
Professor of History.

UNIVERSITY OF ROCHESTER,
Rochester, NY, February 24, 1992.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: "This is the time" to try my senators' sensitivities and my country's memory to have them and it honor one of the very few original thinkers during our "Era of Independence." Rightly we remember his "Common Sense". But you paraphrase his "Rights of Man" in your call for our recognition of civil rights for all. We remember Paine as a writer of memorable prose [usually but a single brilliant opening line], a best selling pamphlet against monarchy, and as his subsequent career showed, a really independent thinker. My students still profit from reading his prose and that is unusual and high praise.

May I petition you to help support Senator Steve Symms bill as co-sponsors of legislation to erect a suitable monument in honor of Paine on the US Capitol Grounds! And it would be proper to have Paine in the line of sight of the Congress. . .

Sincerely yours,

JOHN T. WATERS,
Professor History.

RUTGERS UNIVERSITY,
NEW BRUNSWICK NJ, *February 12, 1992.*

Senator DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to support Senator Steven D. Symms bill for the building of a memorial to Thomas Paine on the grounds of the Capitol.

I have taught courses at Rutgers on United States History, New Jersey History, and the American Revolution. Several years ago I wrote a brief biography of Thomas Paine for an biographical encyclopedia.

In each of the courses mentioned I refer to Thomas Paine; in the last I spend some time on him and his contributions to the Revolution. It is difficult to underestimate the impact of his pamphlet *Common Sense* written in January 1776. It made a clear case for the declaration of independence from England, convincing many Americans that the time had indeed come. During the difficult days of the war that followed Paine wrote a series of *Crises* letters which urged Americans to fight on. His efforts were timely and important. Certainly a monument to remind Americans of this part of their heritage is proper.

Sincerely,

Dr. MAXINE N. LURIE.

UNIVERSITY OF SCRANTON,
Scranton, PA, March 23, 1992.

Sen. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Please let me take this opportunity to strongly endorse the proposed legislation to authorize the erection of a statue of Thomas Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

It is a shame that the author of Common Sense, the pivotal document in the Clarion Call for Independence in 1776, has so little public recognition. Paine's courageous words and ideas provided nothing less than the motive force for the decision to seek independence in '76. It would be a great—and long overdue—public service to commemorate in this way Paine's enormously important role in the revolutionary struggle.

As a soldier who gave 40 years of his life for our country, I consider Paine a fellow patriot.

I wish this project all the success possible.

Sincerely,

JOSEPH M. CANNON, PH.D.
Professor of Education.

JAMES A. ROUSMANIERE,
Southbury, CT, March 23, 1992.

CHRISTOPHER J. DODD,
U.S. Senator, Washington, DC.

DEAR SENATOR DODD: "These are the times that try men's souls, the summer soldier and the sunshine patriot will in this crisis, shrink from service to their country; but he that stands it now deserves the love and thanks of man and woman * * *"

With these words Thomas Paine began a series of pamphlets calling on the will of the patriots to stand firm. This charge could be as well adapted to our present years of political indecision.

With these words I ask you to co-sponsor a Bill introduced by Senator Symms to allow a modest memorial to Thomas Paine on the grounds of the U.S. Capitol— at no cost to the taxpayer.

Being of French heritage myself, and a direct descendent of a soldier in Rochambeau's army, I am proud of Thomas Paine's contributions to his adoptive land, The United States of America. I hope you will share my pride and act to bring this memorial into being in our Capitol by sponsoring this legislation.

Yours sincerely,

JAMES A. ROUSMANIERE,
Selectman,
Town of Southbury.

STANFORD UNIVERSITY,
Stanford, CA, January 17, 1992.

Sen. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for yours of 11 December 1991, soliciting my comment on the possibility of a memorial honoring Thomas Paine.

I would like to express my strongest possible support for this proposal. Frankly, as I'm sure it has to many of your correspondents, it came as quite a surprise to me to learn that there is no kind of memorial in the nation's capital at this time to Paine. He was unquestionably a figure of pivotal importance in the crystalization of sentiment that led to the formal Declaration of Independent from Great Britain in the 1770's. He was also, as you note, a key player in several other episodes of major historical interest, both in this country and in Europe. In any case, please regard this as an expression of strong endorsement of your idea. May it come to swift and elegant fruition.

Sincerely,

DAVID M. KENNEDY,
Chair, History Department.

SYRACUSE UNIVERSITY,
February 12, 1992.

Sen. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Enclosed you will find my letter to Senator Moynihan endorsing your legislation to authorize the building of a memorial to Thomas Paine. It is an excellent idea and I wish you the best of luck.

If I can do anything else, please let me know.

Most cordially,

JAMES ROGER SHARP,
Professor and Chair.

ST. FRANCIS COLLEGE
OF PENNSYLVANIA,
Ebensburg, PA 15931 March 6, 1992

Sen. HARRIS WOFFORD,
Washington, DC.

DEAR SENATOR WOFFORD: As an historian, a past president of both the Cambria County Historical Society and the Pennsylvania Historical Association, and one of your constituents, I am writing to urge your support for the Thomas Paine Capital Memorial legislation, soon to be introduced by Senator Steve Sims of Idaho. The bill will provide for the erection at the intersection of Pennsylvania and Constitution avenues in Washington of an appropriate memorial commemorating the contributions of Thomas Paine to our nation's history.

Paine's widely circulated and persuasive pamphlet, *Common Sense*, is generally regarded as the first important public call for America's separation from Great Britain and his advocacy contributed significantly to the decision, in Philadelphia, for independence. He also argued for a *written* constitution in contrast to the English practice. Despite this association with two of our nation's most treasured documents, Paine is, today, an ob-

scure if not a forgotten figure. He deserves better as the many historians across the country who are actively supporting the proposed legislation agree. I hope that you, also, will agree and that you will give the measure your support and your vote.

Sincerely yours,

JOHN F. COLEMAN, Ph.D.,
Professor of History.

THE UNIVERSITY OF TENNESSEE,
CHATTANOOGA, TN, APRIL 3, 1992.

Senator Steven D. Symms,
Washington, DC.

DEAR SENATOR SYMMS: I am pleased to endorse your proposed legislation to permit the Thomas Paine Memorial Foundation to erect a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

Paine very much deserves to be memorialized in this fashion both for his authorship of *Common Sense*, which provided intellectual foundation for the American Revolution, and for his consistent support of human rights. It is especially commendable that this memorial will be constructed entirely with private funds.

I shall be writing to Senators Gore and Sasser on behalf of this legislation.

Sincerely,

HERBERT BURHENN,
Professor and Department Head.

U.S. CAPITOL HISTORICAL SOCIETY,
Washington, DC. March 23, 1992.

Senator STEVE D. SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am writing to support your legislation to honor Thomas Paine with a modest memorial to be erected within the technical boundaries of the U.S. Capitol Grounds.

I know that you are as aware as I of the contributions Paine made to the American Revolution with the publication of his pamphlet Common Sense. No less authorities than Henry Steele Commager and Richard B. Morris have written: "Doubtless the most important single influence in bringing about a change in popular sentiment was the publication, in January, 1776, of Common Sense." Paine's writings, including The Rights of Man, have placed him in the forefront of the movement for the rights of all men and women without regard to race or religion.

An impressive array of historians, including Arthur Schlesinger, Jr., and Gordon Wood, have endorsed a memorial to Thomas Paine.

As Chief Historian of the U.S. Capitol Historical Society, I am well aware of the reluctance to locate this or any memorial on Capitol Grounds. There is always the apprehension that placing any memorial would open up the process to a multitude of other memorial projects.

I believe that each proposal should be judged on its own merits. What appeals to me most about the Paine proposal is the overpowering symbolic statement made by a modest, solitary statute of Thomas Paine, citizen-soldier-writer. In one statue we would see encapsulated all the best virtues of citizenship: the individual actively involved in forging his own destiny and protecting the rights of his fellow Americans, which is the very bedrock of our democracy. In fact, one could come to see this memorial as representative of the very concept of citizenship, and that it would make a statement that no amount of other memorials or statues could improve upon.

Sincerely,

DONALD R. KENNON,
Chief Historian.

U.S. CAPITOL HISTORICAL SOCIETY,
Washington, DC. March 13, 1992.

Senator STEVE D. SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing to express my support for your proposal to site a memorial to Thomas Paine on a Capitol grounds site. I have long supported a proper recognition of Thomas Paine, and I am pleased to learn of your desire to locate a modest memorial in keeping with Paine's philosophy on the Capitol grounds.

After reviewing the present list of more than 220 co-sponsors for the House version of this bill, supported by the endorsements of numerous eminent American historians, I am pleased to add my voice to the chorus calling for this long overdue recognition of Thomas Paine's life and accomplishments.

I am reassured by your assurances that the proper precautions will be taken to ensure that this action does not become a precedent for the siting of other memorials on Capitol grounds. I believe this is a wise precaution to mute any possible criticism.

For all of these reasons, I am able to express my wholehearted support for your proposal.

Sincerely,

FRED SCHWENGEL,
President.

P.S.—I also wish to express my profound gratitude for your interest in entering my statement on The Mission of America in the Post-Cold War World into the Congressional Record.

U.S. CAPITOL HISTORICAL SOCIETY,
Washington, DC, March 13, 1992.

Hon. GEORGE M. WHITE
FAIA, Architect of the Capitol,
Washington, DC.

DEAR GEORGE: I am writing to express my support for Senator Steve Symms' proposal to site a memorial to Thomas Paine on a Capitol grounds site. I have long supported a proper recognition of Thomas Paine, and I am pleased to learn from Senator Symms of his desire to locate a modest memorial in keeping with Paine's philosophy on the Capitol grounds.

As I wrote to Senator Symms in August 1991 when he first came to me to ascertain my position with respect to his proposed statue of Thomas Paine, "I shall pursue with all the intelligence and energy I have to do the appropriate honor to Thomas Paine."

After reviewing the present list of more than 220 co-sponsors of H.R. 1628, coupled with the dozens of endorsements of the Pennsylvania and Constitution Avenues site on the Capitol grounds, supported by eminent historians who are professors and chairs of history departments at prestigious universities throughout the United States, I continue to totally support this long-neglected tribute to Thomas Paine.

Senator Symms assures me that the proper precautions will be taken in the language of the legislation and in the accompanying documentation to preclude this action from becoming a precedent for the siting of other memorials on Capitol grounds.

I am convinced that criticism of this proposal would be muted by the following facts: 1. It would not create a dangerous precedent, 2. The memorial would be privately funded, 3. The memorial design would be modest in appearance, and subject to your final approval, and 4. Thomas Paine's historical significance and appeal transcends partisanship and ideological differences.

In any objective analysis of American history, Thomas Paine has always been viewed in the forefront of the movement for Independence, the rights of all men and women without regard to race or religion, and the necessity for the development of a written democratic constitution. For example, two of America's most eminent historians, Allen Nevins and Henry Steele Commager, wrote in A Short History of the United States:

"What had begun as a war for the 'rights of Englishmen' and the mere redress of grievances became in little more than a year a war for independence. . . . Earlier in 1776, Washington's army raised a distinctive American flag. At the same time a profound effect was being produced by the pamphlet Common Sense, written by a brilliant young radical, Thomas Paine, lately come from England. He argued that independence was the only remedy, that it would be harder to win the longer it was delayed, and that it alone would make American union possible.

In another work coauthored with Richard B. Morris, Professor Commager has observed: "Doubtless the most important single influence in bringing about a change in popular sentiment was the publication, in January, 1776, of Common Sense. * * * Above all, it presented arguments elementary and to be understood by all, in language that could be read by all; it appealed to the widespread popular sense of Americanism, of separation, of egalitarianism * * * The influence of Common Sense was prodigious, and from all parts of the country came testimony of the revolution. It was working in the minds and the hearts of Americans."

For all of these reasons, I am able to express my wholehearted support for Senator Symms' proposal.

Sincerely,

FRED SCHWENGEL,
President.

UTAH STATE UNIVERSITY,
Logan, UT, March 16, 1992.

Senator JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GARN: I strongly support the proposal by Senator Steven Symms authorizing a memorial be erected to Thomas Paine at the junction of Constitution and Pennsylvania Avenues. As a teacher of Early American history I fully appreciate the unique and important contributions Paine made to our Revolution and early nation as well as his role abroad. It merits formal recognition and this seems a fine way to do it.

I urge you to join in the effort to build the memorial. I understand it will be of no cost to us taxpayers.

Sincerely,

MICHAEL L. NICHOLLS,
Associate Professor of History.

THE UNIVERSITY OF UTAH
Salt Lake City, UT, March 18, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am writing to voice my enthusiastic support for your proposed bill to commemorate Thomas Paine's contribution to American independence. He has long deserved such a tribute in our nation's capitol.

I enclose copies of letters sent to Senators Hatch and Garn expressing my support for the proposal.

Sincerely,

ERIC A. HINDERAKER,
Assistant Professor in History.

VASSAR COLLEGE,
Poughkeepsie, NY, February 17, 1992.
Senator STEVE SYMMS,
U.S. Senate,
Washington DC.

DEAR SENATOR SYMMS: Thank you for your recent letter about your proposal to construct a memorial to Thomas Paine in Washington D.C. I wish to add my voice to the chorus of historians who have endorsed your efforts to have one of the leading radical figures in the American political tradition honored.

As a historian of colonial and revolutionary America, Paine figures large in both my teaching and research. Through his political writings and the enormous impact that Common Sense had upon its audience in 1776, Paine deserves to be accorded the same status as the other founding fathers who propounded a republican system of government. Moreover, his ability to capture the mood of the times not only in America, but also in France on the eve of its revolution firmly places Paine in the trans-Atlantic radical tradition.

On a more personal note, I use Paine's Common Sense in an American history survey courses and in a seminar on the American Revolution. My students find Paine's ideas and observations about political society and the need for an active citizenry as relevant today as it was during the "times that try men's souls."

I trust that your campaign will prove successful, and that Tom Paine will join the other Tom (Jefferson) in Washington D.C.

Sincerely,

EDWARD PEARSON,
Assistant Professor of History.

UNIVERSITY OF VIRGINIA,
Charlottesville, VA, March 17, 1992.
Senator CHARLES ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: Senator Steve Symms of Idaho has asked me to express to you my support of the proposed memorial to Thomas Paine on the grounds of the Capitol. Such national recognition of Paine is long overdue. Curiously, there is a fine statute of Paine at his birthplace, Thetford, in Norfolk, which I have visited, and he is remembered there at every anniversary. But in this country, to which he came at the age of twenty and were he rendered his great service to mankind, he is scarcely remembered at all. The United States has an unacknowledged debt of gratitude to Paine. I warmly urge you to support the proposal of the Thomas Paine National Historical Association and hope that you will join Senator Symms as a co-sponsor of the legislation.

Sincerely yours,

MERRILL D. PETERSON,
Jefferson Foundation Professor Emeritus.

WASHINGTON UNIVERSITY,
DEPARTMENT OF HISTORY,
St. Louis, MO, March 3, 1992.
Senator STEVE SYMMS,
Senate Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for your letter informing me of your legislation to commemorate the life and efforts of Thomas Paine. I was surprised to learn that no Paine memorial of any sort exists in our nation's capital. In view of the unmatched impact of his pamphlet, Common Sense—it was the most widely read work of its time in America—Americans ought to be re-acquainted with its powerful message of democracy and universal rights. Paine's conceptualization of a great and free society compelled him to attack slavery and inequality in that work and in many other writings. As is abundantly clear to me in the work I am now completing on the creation of a free society in America after 1776, Paine was also an early proponent of a vigorous and healthy economy that would allow the fruits of American prosperity to be enjoyed broadly and serve to benefit all sectors of the nation.

A monument in Washington would bring these ever-important founding principles to the attention of Americans; it is long overdue.

I heartily endorse your efforts, and will urge Missouri Senators Christopher S. Bond and John C. Danforth and Representatives William L. Clay and Richard A. Gephardt to support your legislation.

Sincerely,

DAVID THOMAS KONIG,
Professor, Chair of the Department.

WAYNE STATE UNIVERSITY,
Detroit, MI, April 3, 1992.
Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: On my behalf, please convey to Senator Riegle and Senator Levin my support for legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues. Americans should be reminded of Paine's historically valuable contributions, which surely deserve special recognition. I hope that Senator Riegle and Senator Levin will agree to serve as co-sponsors of the legislation.

Sincerely,

ALAN RAUCHER,
Professor and Chair.

WESTERN RESERVE HISTORICAL SOCIETY,
Cleveland, OH, March 10, 1992.
Mr. GEORGE WHITE,
Architect of the Capitol,
U.S. Congress, Washington, DC.

DEAR GEORGE: The proposed legislation to allow the private sector to construct a modest memorial to Thomas Paine that would be located on the grounds of the U.S. Capitol, has my full support.

I commend the efforts of the Thomas Paine National Historical Association and Senator Symms in bringing long overdue recognition to one of our nation's most important proponents of democracy. His eloquent and persuasive arguments in Common Sense, The American Crisis and The Rights of Man have had a profound influence upon American political philosophy. His achievements as a writer and thinker have been recognized well beyond our shores. It is ironic, indeed, that no lasting tribute to him currently stands in the capital of the country that he so vigorously helped to shape.

We of Ohio and the Western Reserve know of Thomas Paine's legacy through the remarkable Northwest Ordinance that was clearly influenced by his advocacy of human rights and his remarkable vision.

I very much encourage your favorable consideration of a Thomas Paine Memorial at the U.S. Capitol.

Sincerely,

THEODORE ANTON SANDE,
Executive Director.

WEST VIRGINIA UNIVERSITY,
Morgantown, WV, March 30, 1992.
Senator ROBERT BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I am writing to urge your support of legislation to allow private groups to erect a memorial to Thomas Paine. Such a memorial has been long delayed. Paine is perhaps best known for his authorship of Common Sense. It is doubtful if any other document before or since has done more to influence the course of events. In 1776, Common Sense propelled the colonies to independence.

Paine's role in sparking the rebellion is all too often ignored. It was Paine who verbalized and popularized revolutionary rhetoric for all classes in colonial society. A memorial to Paine on the Capitol grounds would be a most appropriate tribute to the man who was able to unite thirteen formerly diverse colonies in a common cause.

I strongly urge your support of this measure.

Sincerely,

MARY LOU LUSTIG,
Assistant Professor.

THE WHITE HOUSE,
Washington, January 12, 1987.

I am delighted to send greetings to the members of The Thomas Paine National Historical Association as you celebrate the 250th anniversary of the birth of your organization's namesake.

In the bleak December of 1776, Paine wrote, "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman."

Among his many forceful and cogent writings, it is perhaps by these words that Americans best remember Paine. And with good reason. They provided invaluable inspiration for the men of the Continental Army at a time when the American Revolution seemed in danger of being crushed.

But Paine did not just talk a good fight. He labored long and tirelessly to raise funds and equipment for the colonial forces, even to the point of impoverishing himself, fulfilling his own words that, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

Tom Paine deserves our tribute above all for his eloquent and timeless defense of the value of freedom. In this age in which some people question whether any value is worth great sacrifice, whether any ideal is worth fighting for, Paine reminds us that a free society is well worth whatever price must be paid to achieve and preserve it.

I commend your Association for keeping alive the spirit of this great champion of human freedom, and I join you in honoring him. You have my best wishes for a memorable celebration.

God bless you.

RONALD REAGAN.

WICHITA STATE UNIVERSITY,
Wichita, KS, March 10, 1992.
Senator ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: It has come to our attention that Senator Steve Symms of Idaho is introducing legislation to allow the Thomas Paine Society and the private sector to construct a modest memorial to Thomas Paine on the grounds of the U.S. capitol. It

is also our understanding that as Chairman of the Senate Rules Committee, you have a considerable role to play in the utilization of space on the capitol grounds.

We urge you to respond favorably to the Symms legislation. Surely few individuals were as important to the founding of the American Republic as Thomas Paine. As George Washington noted, Paine's publication of Common Sense in January 1776 "is working a powerful change in the minds of men," for it directly attacked the allegiance to the monarchy of George II and transformed the revolutionary controversy. His subsequent contribution of inspirational articles condemning slavery and promoting equal rights for men and women of all race and religious beliefs places him among the leading founding fathers.

It was with the greatest surprise, therefore, that we learned that there is no memorial to this great American. Such an oversight should have been corrected at the time of the Bicentennial celebration. Since it was not, it seems appropriate to do so now and it is equally appropriate that he be accorded space on the U.S. capitol grounds. Since such a modest memorial will be erected and maintained at no cost to the taxpayers, we heartily endorse such a memorial and urge you to do so as well. Thank you for your attention to this matter.

On behalf of the Department of History of Wichita State University, I remain,

Sincerely Yours,

JOHN E. DREIFORT,
Professor and Chair.

UNIVERSITY OF WISCONSIN—MADISON,
Madison, WI, March 11, 1992.

Hon. STEVEN SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I very much support your efforts to erect a monument at the corner of Constitution and Pennsylvania Avenues in Washington, D.C., honoring Thomas Paine. The recognition is well deserved, and long overdue.

Paine presents the kind of radical figure difficult for many people to understand because he resists easy categorization and mythologizing. A Deist, he knew the language of evangelical Protestantism well enough to base one of his central arguments in Common Sense on I Samuel; a one-time tax collector, he feared the power of government to extract people's property from them without their consent; a fervent democrat, he also advocated the entrepreneurial capitalism of the ascending mercantile elites; and a world-class revolutionary, he also advocated the necessity for grounding government in a constitution. One or another part of his career angers almost anyone with an ideological axe to grind, and so it is perhaps not surprising that the greatest propagandist of the American Revolution does not yet have his marker in the city of statues. He should.

Paine reminds us of the ambiguities of our past, the explosive mixture of regard for human rights and personal property that is both the Revolution's legacy and its challenge: how to reconcile liberty with the pursuit of personal gain? At this point in time, we ought to be able to salute publicly his revolutionary republicanism, and to lay aside Theodore Roosevelt's assessment of him as a "dirty little atheist." I applaud your efforts and wish them success.

Sincerely,

CHARLES L. COHEN,
Associate Chairman.

YALE UNIVERSITY,
New Haven, CT, February 12, 1992.

Senator EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I strongly support the legislation proposed by Sen. Symms to authorize a memorial to Thomas Paine to be erected on Capitol grounds at Pennsylvania and Constitution Avenues. Paine was a crucial figure in the emergence of American republicanism, and a signal contributor to democratic thought.

The proposed statue is a fitting (and long overdue) way to acknowledge Paine's remarkable accomplishments and his legacy.

Sincerely,

NANCY F. COTT,
Woodward Professor of American Studies and History.

YORK COLLEGE,
York, PA, February 26, 1992.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Enclosed for your information is a copy of the letter I sent to Senators Wofford and Spector of Pennsylvania in support of your proposal to erect a statue in honor of Thomas Paine.

The Department of History & Political Science appreciates your initiative in this matter and wishes you success with its completion.

Sincerely,

PHILIP J. AVILLO, Jr., Ph.D.,
Chairman.

Mr. SYMMS. Mr. President, in closing, I think it well to remember that Thomas Paine was one of the first to publicly, unequivocally, and effectively denounce chattel slavery in America, connecting the freedoms of African-Americans to the cause of American freedom. In addition, as clerk of the Pennsylvania Assembly, he wrote the first law in the Western World regarding emancipation.

He was the first to propose and help implement through written persuasion the four cornerstones of American society and governance: First, our independence from England; second, our representative, democratic/republican form of government; third, our status as a united sovereign country with due regard for individual and States rights; and fourth, our status as world leader for universal freedom and human rights.

He was the first to specifically call for a Declaration for Independence and a Constitutional Convention, and propose an outline for our constitution.

He coined the term "Free and Independent States of America" and brought into general usage the term "United States of America".

He nurtured the Revolution through immortal words and practical deeds, such as initiating the first effective fund drive for the war effort, which resulted in his being the first subscriber to the Bank of America, which financed the Revolution; and he personally traveled to France and secured finances and critical supplies for the decisive battle of Yorktown.

He significantly contributed to the first victory of the continental Army with his immortal words, "These are the times that try men's souls * * *" et cetera, which Washington ordered read to the entire Army, and Presidents have used ever since in times of crisis up to and including the present administration.

He was among the first to publish a defense of the rights of women.

He carried the concept of a new world order to Europe, resulting in the democratic reform movements of the late 18th and 19th centuries which ultimately led to the Third World and Eastern European revolutions we have just witnessed.

He was among the first to publicly call for the overthrow of the French monarchy and wrote the French Declaration of Rights, but defended the life of Louis XVI at risk to his own.

He was among the first to propose an international peace organization using sanctions as a means of enforcement of international law.

He was among the first to propose international arbitration and copyright.

He pioneered the development of the metal single span arch bridge.

In terms of per capita readership at the time of publication, he wrote two of the greatest selling works in the history of writing: "Common Sense," and the "Rights of Man" I don't know of an 18th century political writer who has more books still in print.

I thank my colleagues, the pages, the staff of the Secretary and Sergeant at Arms, who run the Senate, for their indulgence at this late hour on a Friday afternoon. But I do appreciate it. And I would also like to say a special thanks to all of my colleagues, some who are not as yet sponsors of the concurrent resolution and certainly all those who are sponsors of this concurrent resolution for making this a reality. I know there will be many people who will be looking forward to the day when the families of America come to this Nation's beautiful Capitol and there will be an appropriate memorial built here on the Capitol grounds which will pay tribute to this great American.

Mr. President, I thank the Chair.

SENATE RESOLUTION 287—AUTHORIZING AN APPEARANCE BY THE SENATE LEGAL COUNSEL

Mr. CRANSTON (for Mr. MITCHELL, for himself, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas, in the case of *United States ex rel. Barbara Burch* versus *Piqua Engineering, Inc.*, No. C-1-90-745, pending in the United States District Court for the Southern District of Ohio, the Constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendment

Act of 1986, Public Law No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, et seq. (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of *United States ex rel. Barbara Burch* versus *Piqua Engineering, Inc.*, to defend the constitutionality of the qui tam provisions of the False Claims Act.

SENATE RESOLUTION 288—RELATIVE TO THE NEW ORIOLE PARK AT CAMDEN YARDS

Ms. MIKULSKI (for herself and Mr. SARBANES) submitted the following resolution; which was considered and agreed to:

S. RES. 288

Whereas baseball is the national past time;

Whereas on April 6, 1992, the President of the United States, George Bush, threw out the first pitch at the Orioles Park at Camden Yards;

Whereas the Orioles Park at Camden Yards contains verdant fields of grass grown on Marylands' Eastern Shore;

Whereas opening day at Orioles Park at Camden Yards was the historic culmination of years of effort;

Whereas the Orioles Park at Camden Yards embraces the glorious traditions of baseball by reflecting the diverse urban character of the city of Baltimore;

Whereas the opening of the Orioles Park at Camden Yards is the latest step in the reinvigoration of the historic city of Baltimore: Now, therefore, be it

Resolved, That the Senate of the United States congratulates Eli Jacobs and Larry Lucchino, of the Baltimore Orioles, and Fay Vincent, the commissioner of Major League Baseball, upon the opening of Orioles Park at Camden Yards.

SEC. 2. That the Senate of the United States congratulates the architects of Orioles Park at Camden Yards, Janet Marie Smith and Joe Spear, for their important contribution to the character of the city of Baltimore and to the sport of baseball.

SEC. 3. That the Senate of the United States commends Governor William Donald Schaefer and Mayor Kurt Schmoke, along with all the State and local officials whose determination made the opening of Orioles Park at Camden Yards possible.

SEC. 4. That the Senate of the United States congratulates the men and women whose skill, talent, craftsmanship, and hard work built Orioles Park at Camden Yards from the ground up, making Orioles Park at Camden Yards the masterpiece of American quality and urban architecture that it is today.

SEC. 5. The Senate of the United States commends the fans and all of the people of Maryland whose support made this dazzing accomplishment possible.

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE BUDGET

DOMENICI (AND OTHERS) AMENDMENT NO. 1777

Mr. DOMENICI (for himself, Mr. NUNN, Mr. RUDMAN, Mr. ROBB, Mr. SYMMS, and Mr. DOLE) proposed an amendment to the concurrent resolution (S. Con. Res. 106) setting forth the congressional budget for the U.S. Government for fiscal years 1993, 1994, 1995, 1996, and 1997; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1993, including the appropriate budgetary levels for fiscal years 1994, 1995, 1996, and 1997, as required by section 301 of the Congressional Budget Act of 1974 (as amended by the Budget Enforcement Act of 1990).

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 1993.
Sec. 2. Recommended levels and amounts.
Sec. 3. Debt increase as a measure of deficit.
Sec. 4. Social Security.
Sec. 5. Major functional categories.
Sec. 6. Control in growth of mandatory spending.
Sec. 7. Social Security Outlay and Revenue levels.
Sec. 8. The Peace Dividend.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1993, 1994, 1995, 1996, and 1997:

(1) FEDERAL REVENUES.—(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1993: $845,300,000,000.
Fiscal year 1994: $911,300,000,000.
Fiscal year 1995: $968,100,000,000.
Fiscal year 1996: $1,017,800,000,000.
Fiscal year 1997: $1,070,400,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1993: $0.
Fiscal year 1994: $0.
Fiscal year 1995: $0.
Fiscal year 1996: $0.
Fiscal year 1997: $0.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $85,300,000,000.
Fiscal year 1994: $91,200,000,000.
Fiscal year 1995: $96,800,000,000.
Fiscal year 1996: $102,900,000,000.
Fiscal year 1997: $109,200,000,000.

(2) NEW BUDGET AUTHORITY.—The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,250,200,000,000.
Fiscal year 1994: $1,268,400,000,000.
Fiscal year 1995: $1,307,100,000,000.
Fiscal year 1996: $1,357,300,000,000.
Fiscal year 1997: $1,433,600,000,000.

(3) BUDGET OUTLAYS.—The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,241,800,000,000.
Fiscal year 1994: $1,255,700,000,000.
Fiscal year 1995: $1,258,500,000,000.
Fiscal year 1996: $1,282,100,000,000.
Fiscal year 1997: $1,347,400,000,000.

(4) DEFICITS.—The amounts of the deficits are as follows:

Fiscal year 1993: $396,500,000,000.
Fiscal year 1994: $344,400,000,000.
Fiscal year 1995: $290,400,000,000.
Fiscal year 1996: $264,300,000,000.
Fiscal year 1997: $277,000,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,465,600,000,000.
Fiscal year 1994: $4,865,500,000,000.
Fiscal year 1995: $5,211,900,000,000.
Fiscal year 1996: $5,533,200,000,000.
Fiscal year 1997: $5,860,200,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1993: $19,700,000,000.
Fiscal year 1994: $19,600,000,000.
Fiscal year 1995: $19,200,000,000.
Fiscal year 1996: $19,000,000,000.
Fiscal year 1997: $19,000,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1993: $113,300,000,000.
Fiscal year 1994: $111,800,000,000.
Fiscal year 1995: $112,300,000,000.
Fiscal year 1996: $112,700,000,000.
Fiscal year 1997: $113,000,000,000.

SEC. 3. DEBT INCREASE AS A MEASURE OF DEFICIT.

The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1993: $447,300,000,000.
Fiscal year 1994: $399,900,000,000.
Fiscal year 1995: $346,400,000,000.
Fiscal year 1996: $321,300,000,000.
Fiscal year 1997: $327,000,000,000.

SEC. 4. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—The amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1993: $328,100,000,000.
Fiscal year 1994: $350,300,000,000.
Fiscal year 1995: $371,800,000,000.
Fiscal year 1996: $395,300,000,000.
Fiscal year 1997: $419,500,000,000.

(b) SOCIAL SECURITY OUTLAYS.—The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1993: $260,000,000,000.
Fiscal year 1994: $271,600,000,000.
Fiscal year 1995: $283,000,000,000.
Fiscal year 1996: $294,500,000,000.
Fiscal year 1997: $306,000,000,000.

SEC. 5. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:

(A) New budget authority, $280,400,000,000.

(B) Outlays, $290,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $279,000,000,000.
(B) Outlays, $279,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $278,300,000,000.
(B) Outlays, $275,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $274,600,000,000.
(B) Outlays, $276,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $275,900,000,000.
(B) Outlays, $276,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1993:
(A) New budget authority, $18,300,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.
Fiscal year 1994:
(A) New budget authority, $18,500,000,000.
(B) Outlays, $16,900,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.
Fiscal year 1995:
(A) New budget authority, $18,600,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.
Fiscal year 1996:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.
Fiscal year 1997:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $17,100,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1993:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $16,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $17,500,000,000.
(B) Outlays, $17,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $17,500,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $17,400,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1993:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
Fiscal year 1994:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1995:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,100,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1996:
(A) New budget authority, $5,400,000,000.
(B) Outlays, $4,700,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1997:
(A) New budget authority, $5,400,000,000.
(B) Outlays, $4,100,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 1993:
(A) New budget authority, $21,300,000,000.
(B) Outlays, $20,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $21,700,000,000.
(B) Outlays, $21,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $21,700,000,000.
(B) Outlays, $21,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $21,400,000,000.
(B) Outlays, $21,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $21,400,000,000.
(B) Outlays, $21,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1993:
(A) New budget authority, $16,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $8,800,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1994:
(A) New budget authority, $16,800,000,000.
(B) Outlays, $14,700,000,000.
(C) New direct loan obligations, $8,700,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1995:
(A) New budget authority, $14,600,000,000.
(B) Outlays, $12,500,000,000.
(C) New direct loan obligations, $8,200,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1996:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $8,000,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1997:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $12,700,000,000.
(C) New direct loan obligations, $8,000,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1993:
(A) New budget authority, $77,900,000,000.
(B) Outlays, $73,600,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $60,400,000,000.
Fiscal year 1994:
(A) New budget authority, $41,900,000,000.
(B) Outlays, $36,100,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $60,400,000,000.
Fiscal year 1995:
(A) New budget authority, $22,000,000,000.
(B) Outlays, −$13,900,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $60,400,000,000.
Fiscal year 1996:
(A) New budget authority, $6,700,000,000.
(B) Outlays, −$42,600,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $60,400,000,000.
Fiscal year 1997:
(A) New budget authority, $7,200,000,000.
(B) Outlays, −$27,600,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $60,400,000,000.
(8) Transportation (400):
Fiscal year 1993:
(A) New budget authority, $41,200,000,000.
(B) Outlays, $35,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $41,400,000,000.
(B) Outlays, $37,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $41,300,000,000.
(B) Outlays, $37,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $41,500,000,000.
(B) Outlays, $37,600,000,000.

(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $43,700,000,000.
(B) Outlays, $37,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1993:
(A) New budget authority, $6,400,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $6,400,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1995:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $5,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1996:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1997:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1993:
(A) New budget authority, $51,700,000,000.
(B) Outlays, $49,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,200,000,000.
Fiscal year 1994:
(A) New budget authority, $51,400,000,000.
(B) Outlays, $50,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,700,000,000.
Fiscal year 1995:
(A) New budget authority, $50,300,000,000.
(B) Outlays, $49,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,100,000,000.
Fiscal year 1996:
(A) New budget authority, $50,200,000,000.
(B) Outlays, $45,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,400,000,000.
Fiscal year 1997:
(A) New budget authority, $50,600,000,000.
(B) Outlays, $49,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,600,000,000.
(11) Health (550):
Fiscal year 1993:
(A) New budget authority, $104,500,000,000.
(B) Outlays, $104,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1994:
(A) New budget authority, $114,700,000,000.
(B) Outlays, $114,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1995:
(A) New budget authority, $126,500,000,000.
(B) Outlays, $125,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1996:
(A) New budget authority, $140,200,000,000.
(B) Outlays, $139,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1997:
(A) New budget authority, $155,100,000,000.
(B) Outlays, $153,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1993:
(A) New budget authority, $132,400,000,000.
(B) Outlays, $130,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $146,300,000,000.
(B) Outlays, $144,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $162,900,000,000.
(B) Outlays, $160,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $183,000,000,000.
(B) Outlays, $180,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $203,600,000,000.
(B) Outlays, $201,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1993:
(A) New budget authority, $201,800,000,000.
(B) Outlays, $196,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $204,900,000,000.
(B) Outlays, $206,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $213,800,000,000.
(B) Outlays, $216,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $221,500,000,000.
(B) Outlays, $225,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $232,600,000,000.
(B) Outlays, $236,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1993:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $9,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $9,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $7,900,000,000.
(B) Outlays, $10,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $8,700,000,000.
(B) Outlays, $11,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1993:
(A) New budget authority, $34,700,000,000.
(B) Outlays, $34,700,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $22,100,000,000.
Fiscal year 1994:
(A) New budget authority, $35,200,000,000.
(B) Outlays, $36,700,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,000,000,000.
Fiscal year 1995:
(A) New budget authority, $35,700,000,000.
(B) Outlays, $35,800,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,100,000,000.
Fiscal year 1996:
(A) New budget authority, $36,100,000,000.
(B) Outlays, $34,700,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,200,000,000.
Fiscal year 1997:
(A) New budget authority, $36,500,000,000.
(B) Outlays, $36,600,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,300,000,000.
(16) Administration of Justice (750):
Fiscal year 1993:
(A) New budget authority, $15,100,000,000.
(B) Outlays, $15,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,100,000,000.
(B) Outlays, $15,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $15,900,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1993:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $12,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $11,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $11,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1993:
(A) New budget authority, $242,100,000,000.
(B) Outlays, $242,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $263,900,000,000.
(B) Outlays, $263,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $283,300,000,000.
(B) Outlays, $283,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $303,800,000,000.
(B) Outlays, $303,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $325,500,000,000.
(B) Outlays, $325,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1993:
(A) New budget authority, −$2,700,000,000.
(B) Outlays, −$2,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $2,400,000,000.
(B) Outlays, −$600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,900,000,000.
(B) Outlays, $4,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $14,600,000,000.
(B) Outlays, −$1,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $17,800,000,000.
(B) Outlays, −$25,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
(A) Fiscal year 1993:
(A) New budget authority, −$33,400,000,000.
(B) Outlays, −$33,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, −$32,600,000,000.
(B) Outlays, −$32,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, −$33,200,000,000.
(B) Outlays, −$33,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$33,400,000,000.
(B) Outlays, −$33,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$34,500,000,000.
(B) Outlays, −$34,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

SEC. 6. CONTROL IN GROWTH OF MANDATORY SPENDING.

(a) FINDINGS.—The Congress finds that—
(1) mandatory spending has increased from $32 billion in 1962 to $708 billion in 1992;
(2) mandatory spending now accounts for nearly half of all Federal outlays, up from 30 percent in 1962;
(3) over the next five years, mandatory spending will grow by $190 billion over and above inflation increases and increases for new beneficiaries;
(4) the Federal budget deficit, projected to exceed $400 billion in 2002, will remain too high unless the growth in mandatory spending is brought under control; and
(5) the current budget process does not provide adequate controls on the growth of mandatory spending.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that legislation should be enacted that—
(1) would, beginning with fiscal year 1994, phase in a cap by fiscal year 1997 on the growth in mandatory spending for all programs except Social Security at a level that allows for beneficiary and inflation growth;
(2) requires mandatory funding levels in the congressional budget resolution not to exceed the mandatory cap; and
(3) provides a mechanism to reduce the growth in spending for mandatory programs except Social Security if such mandatory spending exceeds the cap.

SEC. 7. SOCIAL SECURITY OUTLAY AND REVENUE LEVELS.

(a) ACCOUNTING TREATMENT.—Notwithstanding any other provision of this resolution, for the purpose of allocations and points of order under sections 302 and 311 of the Congressional Budget Act of 1974, the levels of Social Security outlays and revenues for this resolution shall be the current services levels.

(b) APPLICATION OF SECTION 301(i).—Notwithstanding any other rule of the Senate, in the Senate, the point of order established under section 301(i) of the Congressional Budget Act of 1974 shall apply to any concurrent resolution on the budget for any fiscal year (as reported and as amended), amendments thereto, or any conference report thereon.

SEC. 8. THE PEACE DIVIDEND.

(a) FINDINGS.—The Congress finds that this concurrent resolution on the budget—
(1) reduces the President's budget request for function 050, National Defense, by a total of $35 billion for fiscal years 1993 through 1997; and,
(2) allocates $30 billion in funding above a freeze level for domestic discretionary spending to function 920, Allowances, for fiscal years 1993 through 1997 and abides by the Budget Enforcement Act's spending limitations.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress this budget resolution assume that—
(1) the defense savings associated with the President's budget request be devoted to deficit reduction; and,
(2) $30 billion of the additional defense savings for fiscal years 1993–1997 be devoted to additional funding above a freeze level for domestic discretionary investments for transportation, education and training, science and technology, and other economic growth enhancing initiatives that increase the nation's productivity and competitiveness.

SEC. 9. MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.

In the Senate, an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to—
(1) waive or suspend section 605(b) of the Congressional Budget Act of 1974; or
(2) sustain an appeal of the ruling of the Chair on a point of order raised under section 605(b) of the Congressional Budget Act of 1974.

SEC. 10. SENSE OF THE SENATE REGARDING FOREIGN GOVERNMENT SUBSIDIES.

(a) FINDINGS.—The Senate finds that—
(1) the provision of trade distorting industrial subsidies by foreign governments puts tremendous pressure on the United States Government to provide similar subsidies to industries in the United States; and
(2) any ratification of foreign government industrial subsidies would so increase the pressure for industrial subsidies by the United States Government as to undermine efforts to limit the growth of government spending and reduce the federal budget deficit.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, consistent with the overall and principal trade negotiating objectives set forth in the Omnibus Trade and Competitiveness Act of 1988, the United States Government should not, as a matter of official policy, condone or legitimize trade distort-

ing subsidies by foreign governments that cause material injury to industries in the United States.

SEC. 11. SENSE OF THE SENATE THAT CERTAIN GOVERNMENT SUBSIDIES SHOULD NOT GO TO THOSE WHO ARE NOT IN NEED AND THAT A STUDY SHOULD BE CONDUCTED TO IDENTIFY SUCH SUBSIDIES.

(a) FINDING.—The United States Government needs an accurate understanding of the subsidies it pays to those who are not in need.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, as part of the effort to reduce the Federal budget deficit and to set spending priorities, subsidies should not be paid to those who are not in need and that a study should be conducted, as provided in paragraph (c), the identify such subsidies.

(c) STUDY OF UNITED STATES GOVERNMENT MANDATORY SPENDING BY INCOME CATEGORIES.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, and concurrently Director of the Congressional Budget Office, in consultation with the Bureau of the Census and the Internal Revenue Service (both of which would provide statistical data) and other Executive Branch departments and agencies, should prepare an estimate by agency and account of the dollar value (as measured by outlays) of assistance payments from United States Government mandatory spending programs under current law and regulations to recipients by income category for the current and five succeeding fiscal years.

(2) METHODOLOGY.—The study described in paragraph c, to establish appropriate income categories, shall use for individuals the sum of the individual's adjusted gross income plus any United States Government assistance payment not already included in such adjusted gross income and shall use for persons other than individuals the sum of the person's taxable income plus any such payment not already included in such taxable income

(3) DEFINITIONS.—

(A) the term "assistance payments from United States Government mandatory spending programs" means any payment, including payments-in-kind and loans, made by the United States Government directly, indirectly, or through payment to another on the individual's or person's behalf from the mandatory spending programs. The term does not mean payments of Social Security benefits.

(B) The term "recipients" means the individuals or persons on whose behalf the assistance payments are made.

(4) REPORTING.—The study described in subsection c of paragraph 1 shall be submitted to the Congress, and updated annually, as part of the Budget Message of the President.

SEC. 12. SENSE OF THE SENATE REGARDING BALANCED BUDGET AMENDMENT.

(1) It is the sense of the Senate that the Senate should adopt a joint resolution proposing an amendment to the Constitution relating to a federal balanced budget, and requiring the President of the United States to annually submit a balanced budget and that the adoption of such joint resolution should occur on or before June 5, 1992.

SEC. 13. PROGRAM BUDGET EVALUATION.

(a) FINDINGS.—

(1) the current national debt stands at $3.1 trillion;

(2) the federal deficit for fiscal year 1993 is projected to add another $350 billion to that debt; and

(3) it is crucial to the well being of future generations of Americans that federal deficits be eliminated and the national debt reduced;

(b) SENSE OF THE SENATE.—

It is the Sense of the Senate that prior to the commencement of the 104th Congress, each authorizing committee of the Senate should conduct a comprehensive reexamination and evaluation of existing programs under its jurisdiction which result in the expenditure of federal dollars, and report its findings to the Senate.

Such committee reports should consider the following matters:

(1) an identification of the objectives intended for the program and the problem it was intended to address.

(2) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the program is intended to address.

(3) an identification of any other program having potentially conflicting or duplicative objectives.

(4) a statement of the number and types of beneficiaries or persons served by the program.

(5) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

(6) an assessment of the cost effectiveness of the program.

(7) an assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program."

SEC 14. SENSE OF THE SENATE REGARDING INCREASING PRODUCTIVITY.

(A) FINDINGS.—The Senate finds that—

(1) failure to meet the challenge of international economic competitiveness would seriously jeopardize our national security, standard of living, and quality of life in the coming decades: and

(2) increased productivity is the key to meeting the challenge and regaining the competitive edge the United States economy enjoyed in the past.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that funds should be allocated to allow this Nation to commit to an increase in productivity and international competitiveness through a program of long-term strategic investment in—

(1) the development of its human resources:

(2) the physical infrastructure that supports economic activity;

(3) the development and commercialization of technology; and

(4) productive plants and equipment.

MITCHELL AMENDMENT NO. 1778

Mr. MITCHELL proposed an amendment to amendment No. 1777 proposed by Mr. DOMENICI (and others) to the concurrent resolution (S. Con. Res. 106) supra; as follows:

On page 38, line 17 of the amendment, insert before the period the following: ", except that Medicaid shall be exempt from the cap and the cuts required by the mechanism described in this section".

MITCHELL AMENDMENT NO. 1779

Mr. MITCHELL proposed an amendment to amendment No. 1778 proposed by him to amendment No. 1777 proposed by Mr. DOMENICI (and others) to the concurrent resolution (S. Con. Res. 106), supra; as follows:

At the end of the matter proposed to be inserted, insert the following: ", Veterans' Compensation shall be exempt from the cap and the cuts required by the mechanism described in this section".

DECONCINI (AND OTHERS) AMENDMENT NO. 1780

Mr. DECONCINI (for himself, Mr. CHAFEE, Mr. LEAHY, Mr. SPECTER, Mr. JOHNSTON, Mr. LUGAR, Mr. BRADLEY, Mr. DOLE, Mr. GRAHAM, Mr. MCCONNELL, Mr. RIEGLE, Mr. WARNER, Mr. AKAKA, Mr. MURKOWSKI, Mr. SIMON, Mr. DANFORTH, Mr. WELLSTONE, Mr. DURENBERGER, Mr. DODD, and Mr. LAUTENBERG) proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra, as follows:

At the end of the resolution, add the following:

SEC. . SENSE OF THE SENATE ON WIC.

(a) FINDINGS—The Senate finds that—

(1) the Special Supplemental Food Program for Women, Infants and Children (WIC) has been invaluable to millions of needy pregnant and nursing women, infants and children at nutritional risk for nearly 20 years;

(2) President Bush has commendably recommended an increase in the WIC program for fiscal year 1993, continuing the strong bipartisan support for expanding the program to serve more of those eligible;

(3) the chairmen of five major American corporations testified last year on WIC, declaring that an increased investment in WIC is essential to the Nation's future economic growth and that "WIC can make an important contribution to ensuring that * * * we have the productive workforce we need";

(4) the CEOs called WIC "the health-care equivalent of a triple-A rated investment * * * one of the most reliable ways that Government can invest its resources," and recommended that to achieve the national education goal established by the President and Governors that by the year 2000 all children should start school ready to learn, "* * * we need to set a related goal: Every woman, infant, and child who is eligible for WIC in 1995 and later years will be served by the program";

(5) less than 60 percent of the eligible women, infants, and children are served by the program due to funding limitations;

(6) a funding level of $3,000,000,000 in fiscal year 1993 is needed to remain on the 5-year path embarked upon by the Congress last year to reach full funding consistent with the CEO's recommendation; and

(7) a recent United States Department of Agriculture study has demonstrated that the prenatal component of WIC reduces Medicaid costs by between $1.92 and $4.21 for each dollar invested in it, and studies issued by the National Bureau of Economic Research have found WIC to be one of the most cost-effective means of reducing infant mortality and indicate WIC also may produce long-term savings in special educational costs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the WIC program should be funded at $3,000,000,000 for fiscal year 1993.

ROTH AMENDMENT NO. 1781

Mr. ROTH proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra, as follows:

At the end of the resolution, add the following:

SEC. . COMMISSION ON FEDERAL GOVERNMENT REFORM.

(a) FINDINGS.—The Congress finds that—

(1) the American people face a crisis of confidence in the Federal Government, which cannot be remedied without dramatic and fundamental reform;

(2) recent polls indicate that an all-time low of only 17 percent of the public approves of Congress, that 78 percent are dissatisfied or angry about the Federal Government, and that Americans think an average of 48 cents out of every dollar in federal taxes is wasted;

(3) while the American people are demanding more performance from their government for the taxes they pay, Congress and the Executive branch still debate the same old options of fewer services or higher taxes;

(4) the public wants governmental institutions that respond quickly to citizens needs, with high-quality services delivered at the minimum necessary cost;

(5) the Federal Government has many talented and hardworking employees whose effectiveness is hindered by existing organizational structures and operations;

(6) some governmental organizations have become inefficient and have structures and missions not reflecting current domestic and international priorities;

(7) some of these organizations were developed during the industrial era, and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command;

(8) such governmental organizations are so obsessed with regulating processes and procedures, that they have ignored the outcomes of their programs;

(9) unlike the Federal Government, American corporations and State and local governments, are making revolutionary changes by streamlining their organizations, decentralizing authority, flattening hierarchies, focusing on quality, and emphasizing responsiveness to the customer; and

(10) there is now a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) a Commission on Federal Government Reform should be established to examine the organization and operations of the Federal government. In developing recommendations to improve governmental performance while minimizing costs, the Commission should consider ways to:

(A) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and results-oriented accountability;

(B) reform personnel systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, and reward excellence;

(C) increase program responsiveness, by eliminating unnecessary paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(D) consolidate and streamline departments, agencies, and programs where possible so as to reduce costs, minimize hierarchy, and focus responsibility;

(E) control the payroll costs of government while providing appropriate levels of staffing to meet program needs;

(F) promote the application of new information technologies, to improve management and reduce administrative costs; and

(G) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches, and greater attention to the long-term impacts of budgetary and policy decisions.

(2) Congress should be mandated to consider the recommendations of the National Commission.

WELLSTONE (AND DODD) AMENDMENT NO. 1782

Mr. WELLSTONE (for himself and Mr. DODD) proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra, as follows:

At the end of the bill, add the following:

SEC. . DEFENSE INDUSTRY CONVERSION.

It is the sense of Congress that no less than $1,000,000,000 in budget authority provided in this resolution for the defense function 050 for fiscal year 1993 should be made available for defense industry conversion-related activities such as those within the following programs:

(1) DEFENSE INDUSTRY WORKERS, JTPA-EDWAA.

(2) COMMUNITIES.—

(A) Economic Development Administration.

(B) Community Development Block Grants.

(C) Small Business Administration.

(D) Impact aid grants to school districts.

(3) TECHNOLOGY.—

(A) NSF education grants to engineers.

(B) DOE technology transfer.

(C) National Institutes of Standards and Technology.

(D) Intelligent vehicle highway system.

SEYMOUR AMENDMENT NO. 1783

Mr. SEYMOUR proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra, as follows:

At the end of the resolution add the following new section:

SEC. 11. SENSE OF CONGRESS RELATING TO THE USE OF DEFENSE-RELATED SAVINGS IN THE FEDERAL BUDGET FOR RETRAINING AND REEMPLOYMENT OF CERTAIN INDIVIDUALS.

(a) FINDINGS.—Congress finds the following:

(1) In relation to the total amount of anticipated Federal spending in fiscal year 1993 and to the anticipated gross national product of the United States in that fiscal year, the percentage of the fiscal year 1993 budget submitted to Congress by the President that is committed to defense spending is the smallest percentage committed to that purpose since before the entry of the United States into World War II.

(2) In each fiscal year from fiscal year 1993 to fiscal year 1997, real growth in programmed Federal spending for national defense purposes will decline at a rate of four percent per year.

(3) During the ten-year period beginning in 1987 and ending in 1997, approximately 708,000 active duty members of the Armed Forces and civilian employees of the Department of Defense will be involuntarily separated from active duty or become unemployed as a result of reductions in Federal defense spending.

(4) The Office of Technology Assessment estimates that, during the period beginning in 1991 and ending in 1995, between 530,000 and 620,000 employees of private, defense-related industries in the United States will become unemployed as a result of reductions in such spending.

(5) The retraining and re-employment of such members, civilian employees, and employees of private industry is critical to the capability of the private aerospace and defense industries of the United States to develop, commercialize, and market nondefense products and technologies.

(6) The capability of such industries to develop, commercialize, and market nondefense products and technologies will play a critical role in ensuring the long-term economic prosperity of such industries and the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a meaningful percentage of the savings in Federal defense spending in fiscal years 1993 through 1997 be made available for the establishment of programs to retrain and re-employ active duty members of the Armed Forces, civilian employees of the Department of Defense, and employees of private, defense-related industries who are involuntarily separated from such duty or become unemployed as a result of reductions in Federal spending for national defense.

D'AMATO (AND OTHERS) AMENDMENT NO. 1784

Mr. D'AMATO (for himself, Mr. KASTEN, Mr. NICKLES, and Mr. SEYMOUR) proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra; as follows:

On page 3, line 23, reduce the amount by $30,000,000.

On page 3, line 24, reduce the amount by $30,000,000.

On page 3, line 25, reduce the amount by $30,000,000.

On page 4, line 1, reduce the amount by $30,000,000.

On page 4, line 2, reduce the amount by $30,000,000.

On page 4, line 5, reduce the amount by $30,000,000.

On page 4, line 6, reduce the amount by $30,000,000.

On page 4, line 7, reduce the amount by $30,000,000.

On page 4, line 8, reduce the amount by $30,000,000.

On page 4, line 9, reduce the amount by $30,000,000.

On page 4, line 12, reduce the amount by $30,000,000.

On page 4, line 13, reduce the amount by $30,000,000.

On page 4, line 14, reduce the amount by $30,000,000.

On page 4, line 15, reduce the amount by $30,000,000.

On page 4, line 16, reduce the amount by $30,000,000.

On page 5, line 20, reduce the amount by $30,000,000.

On page 5, line 21, reduce the amount by $30,000,000.

On page 5, line 22, reduce the amount by $30,000,000.

On page 5, line 23, reduce the amount by $30,000,000.

On page 5, line 24, reduce the amount by $30,000,000.

On page 30, line 25, reduce the amount by $30,000,000.

On page 31, line 9, reduce the amount by $30,000,000.

On page 31, line 18, reduce the amount by $30,000,000.

On page 32, line 3, reduce the amount by $30,000,000.

On page 32, line 12, reduce the amount by $30,000,000.

GRASSLEY AMENDMENT NO. 1785

Mr. GRASSLEY proposed an amendment to the concurrent resolution (S. Con. Res. 106), supra, as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE USE OF DEFENSE RELATED CUTS MADE IN BOTH DEFENSE AND DOMESTIC PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) fairness and propriety dictate that the "Fourth Arm of Defense", better known as the U.S.-flag Merchant Marine, share the burden of defense cuts in this post-cold war era;

(2) the justification for maritime programs and policies such as the Jones Act, cargo preference, and Operating Differential Subsidies has been to maintain a U.S.-flag fleet to supply vessels and manning for sealift needs during overseas military conflicts;

(3) these programs support approximately 9-10 thousand seafaring billets or jobs, with cargo preference supporting approximately 2,000 billets, Operating Differential Subsidies supporting approximately 2,300 billets, and the Jones Act supporting the remaining 5,000 billets.

(4) the U.S. International Trade Commission study concluded that the Jones Act costs American consumers and businesses more than $10 billion per year, and destroys 2,000 jobs in mining, forestry, agriculture and other industries. This translates into a cost of $2 million per seafaring billet.

(5) the Office of Management and Budget reports that it estimates the cost of cargo preference for fiscal year 1993 to run over $500 million. This translates into a cost to the taxpayer of $250,000 per seafaring billet.

(6) the Office of Management and Budget reports that it estimates Operating Differential Subsidies for fiscal year 1993 to cost $225 million. This translates into a cost to the taxpayer of about $100,000 per seafaring billet to subsidize the difference of wages and benefits between U.S.-flag seafarers and their world competitors.

(7) the Department of Defense reports the average cost of salary and benefits for the military's 1.9 million enlisted and officers from E-1 to O-6 captain rank averages $32,125 per year, with captains of navy vessels costing $101,069. The cost of reservists would average one-sixth of these costs.

(8) the Maritime Administration reports the cost of salary and benefits for a captain of a commercial merchant marine class A-3 vessel costs $312,000 per year.

(9) the cost of one commercial merchant marine captain could pay for the cost of three active duty or eighteen reservist captains who face unemployment because of defense reductions in force.

(10) the effort to eliminate unwise defense spending must reach all areas, including the "fourth Arm of Defense" meaning the U.S. commercial merchant marine.

(11) savings from merchant marine programs can and should be used to invest in programs critical to the welfare and education of our children, as well as to improve our military sealift needs.

(12) these savings can be achieved and directed this fiscal year to children programs without eliminating the budget firewalls.

(b) SENSE OF THE SENATE.—It is the sense of the Senate, that cargo preference and operating differential subsidies for our merchant marine be eliminated by Congress and that the $416 million domestic savings per year be distributed among children's welfare and education programs including: Chapter 1, Head Start, Special Education, Impact Aid, Immunizations, Maternal & Child Health, Child Care Block Grant, Child Abuse Prevention, and WIC. Furthermore, the $310 million defense savings from eliminating cargo preference should be dedicated toward establishing a merchant marine reserve paid at the same rate regular military reservists, and that any remaining defense savings be used to minimize the number of active duty and reserve military personal from being released into the unemployment lines. If additional savings are available, they should be devoted to deficit reduction.

AMENDMENT OF FEDERAL RECLAMATION LAWS

JOHNSTON (AND OTHERS) AMENDMENT NO. 1786

Mr. CRANSTON (for Mr. JOHNSTON, for himself, Mr. SEYMOUR, and Mr. CRANSTON) proposed an amendment to the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, as follows:

At the appropriate place, insert the following:

TITLE ———, SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

SEC. . SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of onsite improvements, shall be completed within 10 months of the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provisions of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

GENERIC DRUG ENFORCEMENT ACT

KENNEDY (AND OTHERS) AMENDMENT NO. 1787

Mr. CRANSTON (for Mr. KENNEDY, for himself, Mr. HATCH, and Mr. MCCAIN) proposed an amendment to the bill (H.R. 2454) to authorize the Secretary of Health and Human Services to impose debarments and other penalties for illegal activities involving the approval of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCE; FINDINGS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Generic Drug Enforcement Act of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) FINDINGS.—The Congress finds that—

(1) there is substantial evidence that significant corruption occurred in the Food and Drug Administration's process of approving drugs under abbreviated drug applications,

(2) there is a need to establish procedures designed to restore and to ensure the integrity of the abbreviated drug application approval process and to protect the public health, and

(3) there is a need to establish procedures to bar individuals who have been convicted of crimes pertaining to the regulation of drug products from working for companies

that manufacture or distribute such products.

(d) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; findings; table of contents.
Sec. 2. Debarment and other restrictions.
"Sec. 306. Debarment, temporary denial of approval, and suspension.
"(a) Mandatory debarment.
"(b) Permissive debarment.
"(c) Debarment period and considerations.
"(d) Termination of debarment.
"(e) Publication and list of debarred persons.
"(f) Temporary denial of approval.
"(g) Suspension authority.
"(h) Termination of suspension.
"(i) Procedure.
"(j) Judicial review.
"(k) Certification.
"(l) Applicability.".
Sec. 3. Civil penalties.
"Sec. 307. Civil penalties.
"(a) In general.
"(b) Procedure.
"(c) Judicial review.
"(d) Recovery of penalties.
"(e) Informants.".
Sec. 4. Authority to withdraw approval of abbreviated drug applications.
"Sec. 308. Authority to withdraw approval of abbreviated drug applications.
"(a) In general.
"(b) Procedure.
"(c) Applicability.
"(d) Judicial review.".
Sec. 5. Information.
Sec. 6. Definitions.
Sec. 7. Effect on other laws.

SEC. 2. DEBARMENT AND OTHER RESTRICTIONS.

Sections 306 and 307 (21 U.S.C. 336, 337) are redesignated as sections 309 and 310, respectively, and the following is inserted after section 305:

"DEBARMENT, TEMPORARY DENIAL OF APPROVAL, AND SUSPENSION

"SEC. 306. (a) MANDATORY DEBARMENT.—

"(1) CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—If the Secretary finds that a person other than an individual has been convicted, after the date of the enactment of this section, of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of any abbreviated drug application, the Secretary shall debar such person from submitting, or assisting in the submission of, any such application.

"(2) INDIVIDUALS.—If the Secretary finds that an individual has been convicted of a felony under Federal law for conduct—

"(A) relating to the development or approval, including the process for development or approval, of any drug product, or

"(B) otherwise relating to the regulation of any drug product under this Act,

the Secretary shall debar such individual from providing services in any capacity to a person that has an approved or pending drug product application.

"(b) PERMISSIVE DEBARMENT.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (2), debar—

"(A) a person other than an individual from submitting or assisting in the submission of any abbreviated drug application, or

"(B) an individual from providing services in any capacity to a person that has an approved or pending drug product application.

"(2) PERSONS SUBJECT TO PERMISSIVE DEBARMENT.—The following persons are subject to debarment under paragraph (1):

"(A) CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—Any person other than an individual that the Secretary finds has been convicted—

"(i) for conduct that—

"(I) relates to the development or approval, including the process for the development or approval, of any abbreviated drug application; and

"(II) is a felony under Federal law (if the person was convicted before the date of the enactment of this section), a misdemeanor under Federal law, or a felony under State law, or

"(ii) of a conspiracy to commit, or aiding or abetting, a criminal offense described in clause (i) or a felony described in subsection (a)(1),

if the Secretary finds that the type of conduct which served as the basis for such conviction undermines the process for the regulation of drugs.

"(B) INDIVIDUALS.—

"(i) Any individual whom the Secretary finds has been convicted of—

"(I) a misdemeanor under Federal law or a felony under State law for conduct relating to the development or approval, including the process for development or approval, of any drug product or otherwise relating to the regulation of drug products under this Act, or

"(II) a conspiracy to commit, or aiding or abetting, such criminal offense or a felony described in subsection (a)(2),

if the Secretary finds that the type of conduct which served as the basis for such conviction undermines the process for the regulation of drugs.

"(ii) Any individual whom the Secretary finds has been convicted of—

"(I) a felony which is not described in subsection (a)(2) or clause (i) of this subparagraph and which involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of, any criminal offense, or

"(II) a conspiracy to commit, or aiding or abetting, such felony,

if the Secretary finds, on the basis of the conviction of such individual and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe that such individual may violate requirements under this Act relating to drug products.

"(iii) Any individual whom the Secretary finds materially participated in acts that were the basis for a conviction for an offense described in subsection (a) or in clause (i) or (ii) for which a conviction was obtained, if the Secretary finds, on the basis of such participation and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe that such individual may violate requirements under this Act relating to drug products.

"(iv) Any high managerial agent whom the Secretary finds—

"(I) worked for, or worked as a consultant for, the same person as another individual during the period in which such other individual took actions for which a felony conviction was obtained and which resulted in the debarment under subsection (a)(2), or clause (i), of such other individual,

"(II) had actual knowledge of the actions described in subclause (I) of such other individual, or took action to avoid such actual knowledge, or failed to take action for the purpose of avoiding such actual knowledge,

"(III) knew that the actions described in subclause (I) were violative of law, and

"(IV) did not report such actions, or did not cause such actions to be reported, to an officer, employee, or agent of the Department or to an appropriate law enforcement officer, or failed to take other appropriate action that would have ensured that the process for the regulation of drugs was not undermined, within a reasonable time after such agent first knew of such actions,

if the Secretary finds that the type of conduct which served as the basis for such other individual's conviction undermines the process for the regulation of drugs.

"(3) STAY OF CERTAIN ORDERS.—An order of the Secretary under clause (iii) or (iv) of paragraph (2)(B) shall not take effect until 30 days after the order has been issued.

"(c) DEBARMENT PERIOD AND CONSIDERATIONS.—

"(1) EFFECT OF DEBARMENT.—The Secretary—

"(A) shall not accept or review (other than in connection with an audit under this section) any abbreviated drug application submitted by or with the assistance of a person debarred under subsection (a)(1) or (b)(2)(A) during the period such person is debarred,

"(B) shall, during the period of a debarment under subsection (a)(2) or (b)(2)(B), debar an individual from providing services in any capacity to a person that has an approved or pending drug product application and shall not accept or review (other than in connection with an audit under this section) an abbreviated drug application from such individual, and

"(C) shall, if the Secretary makes the finding described in paragraph (6) or (7) of section 307(a), assess a civil penalty in accordance with section 307.

"(2) DEBARMENT PERIODS.—

"(A) IN GENERAL.—The Secretary shall debar a person under subsection (a) or (b) for the following periods:

"(i) The period of debarment of a person (other than an individual) under subsection (a)(1) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment under subsection (a) occurs within 10 years after such person has been debarred under subsection (a)(1), the period of debarment shall be permanent.

"(ii) The debarment of an individual under subsection (a)(2) shall be permanent.

"(iii) The period of debarment of any person under subsection (b)(2) shall not be more than 5 years.

The Secretary may determine whether debarment periods shall run concurrently or consecutively in the case of a person debarred for multiple offenses.

"(B) NOTIFICATION.—Upon a conviction for an offense described in subsection (a) or (b) or upon execution of an agreement with the United States to plead guilty to such an offense, the person involved may notify the Secretary that the person acquiesces to debarment and such person's debarment shall commence upon such notification.

"(3) CONSIDERATIONS.—In determining the appropriateness and the period of a debarment of a person under subsection (b) and any period of debarment beyond the minimum specified in subparagraph (A)(i) of

paragraph (2), the Secretary shall consider where applicable—

"(A) the nature and seriousness of any offense involved,

"(B) the nature and extent of management participation in any offense involved, whether corporate policies and practices encouraged the offense, including whether inadequate institutional controls contributed to the offense,

"(C) the nature and extent of voluntary steps to mitigate the impact on the public of any offense involved, including the recall or the discontinuation of the distribution of suspect drugs, full cooperation with any investigations (including the extent of disclosure to appropriate authorities of all wrongdoing), the relinquishing of profits on drug approvals fraudulently obtained, and any other actions taken to substantially limit potential or actual adverse effects on the public health,

"(D) whether the extent to which changes in ownership, management, or operations have corrected the causes of any offense involved and provide reasonable assurances that the offense will not occur in the future,

"(E) whether the person to be debarred is able to present adequate evidence that current production of drugs subject to abbreviated drug applications and all pending abbreviated drug applications are free of fraud or material false statements, and

"(F) prior convictions under this Act or under other Acts involving matters within the jurisdiction of the Food and Drug Administration.

"(d) TERMINATION OF DEBARMENT.—

"(1) APPLICATION.—Any person that is debarred under subsection (a) (other than a person permanently debarred) or any person that is debarred under subsection (b) may apply to the Secretary for termination of the debarment under this subsection. Any information submitted to the Secretary under this paragraph does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

"(2) DEADLINE.—The Secretary shall grant or deny any application respecting a debarment which is submitted under paragraph (1) within 180 days of the date the application is submitted.

"(3) ACTION BY THE SECRETARY.—

"(A) CORPORATIONS.—

"(i) CONVICTION REVERSAL.—If the conviction which served as the basis for the debarment of a person under subsection (a)(1) or (b)(2)(A) is reversed, the Secretary shall withdraw the order of debarment.

"(ii) APPLICATION.—Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of a person if the Secretary finds that—

"(I) changes in ownership, management, or operations have fully corrected the causes of the offense involved and provide reasonable assurances that the offense will not occur in the future, and

"(II) sufficient audits, conducted by the Food and Drug Administration or by independent experts acceptable to the Food and Drug Administration, demonstrate that pending applications and the development of drugs being tested before the submission of an application are free of fraud or material false statements.

In the case of persons debarred under subsection (a)(1), such termination shall take effect no earlier than the expiration of one year from the date of the debarment.

"(B) INDIVIDUALS.—

"(i) CONVICTION REVERSAL.—If the conviction which served as the basis for the debarment of an individual under subsection (a)(2) or clause (i), (ii), (iii), or (iv) of subsection (b)(2)(B) is reversed, the Secretary shall withdraw the order of debarment.

"(ii) APPLICATION.—Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of an individual who has been debarred under subsection (b)(2)(B) if such termination serves the interests of justice and adequately protects the integrity of the drug approval process.

"(4) SPECIAL TERMINATION.—

"(A) APPLICATION.—Any person that is debarred under subsection (a)(1) (other than a person permanently debarred under subsection (c)(2)(A)(i)) or any individual who is debarred under subsection (a)(2) may apply to the Secretary for special termination of debarment under this subsection. Any information submitted to the Secretary under this subparagraph does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

"(B) CORPORATIONS.—Upon an application submitted under subparagraph (A), the Secretary may take the action described in subparagraph (D) if the Secretary, after an informal hearing, finds that—

"(i) the person making the application under subparagraph (A) has demonstrated that the felony conviction which was the basis for such person's debarment involved the commission of an offense which was not authorized, requested, commanded, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting on behalf of the person within the scope of the board's or agent's office or employment,

"(ii) all individuals who were involved in the commission of the offense or who knew or should have known of the offense have been removed from employment involving the development or approval of any drug subject to sections 505 or 507,

"(iii) the person fully cooperated with all investigations and promptly disclosed all wrongdoing to the appropriate authorities, and

"(iv) the person acted to mitigate any impact on the public of any offense involved, including the recall, or the discontinuation of the distribution, of any drug with respect to which the Secretary requested a recall or discontinuation of distribution due to concerns about the safety or efficacy of the drug.

"(C) INDIVIDUALS.—Upon an application submitted under subparagraph (A), the Secretary may take the action described in subparagraph (D) if the Secretary, after an informal hearing, finds that such individual has provided substantial assistance in the investigations or prosecutions of offenses which are described in subsection (a) or (b) or which relate to any matter under the jurisdiction of the Food and Drug Administration.

"(D) SECRETARIAL ACTION.—The action referred to in subparagraphs (B) and (C) is—

"(i) in the case of a person other than an individual—

"(I) terminating the debarment immediately, or

"(II) limiting the period of debarment to less than one year, and

"(ii) in the case of an individual, limiting the period of debarment to less than permanent but to no less than 1 year,

whichever best serves the interest of justice and protects the integrity of the drug approval process.

"(e) PUBLICATION AND LIST OF DEBARRED PERSONS.—The Secretary shall publish in the Federal Register the name of any person debarred under subsection (a) or (b), the effective date of the debarment, and the period of the debarment. The Secretary shall also maintain and make available to the public a list, updated no less often than quarterly, of such persons, of the effective dates and minimum periods of such debarments, and of the termination of debarments.

"(f) TEMPORARY DENIAL OF APPROVAL.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (3), refuse by order, for the period prescribed by paragraph (2), to approve any abbreviated drug application submitted by any person—

"(A) if such person is under an active Federal criminal investigation in connection with an action described in subparagraph (B),

"(B) if the Secretary finds that such person—

"(i) has bribed or attempted to bribe, has paid or attempted to pay an illegal gratuity, or has induced or attempted to induce another person to bribe or pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services or to any other Federal, State, or local official in connection with any abbreviated drug application, or has conspired to commit, or aided or abetted, such actions, or

"(ii) has knowingly made or caused to be made a pattern or practice of false statements or misrepresentations with respect to material facts relating to any abbreviated drug application, or the production of any drug subject to an abbreviated drug application, to any officer, employee, or agent of the Department of Health and Human Services, or has conspired to commit, or aided or abetted, such actions, and

"(C) if a significant question has been raised regarding—

"(i) the integrity of the approval process with respect to such abbreviated drug application, or

"(ii) the reliability of data in or concerning such person's abbreviated drug application.

Such an order may be modified or terminated at any time.

"(2) APPLICABLE PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a denial of approval of an application of a person under paragraph (1) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary finds that the conditions described in subparagraphs (A), (B), and (C) of paragraph (1) exist. The Secretary shall terminate such denial—

"(i) if the investigation with respect to which the finding was made does not result in a criminal charge against such person, if criminal charges have been brought and the charges have been dismissed, or if a judgment of acquittal has been entered, or

"(ii) if the Secretary determines that such finding was in error.

"(B) EXTENSION.—If, at the end of the period described in subparagraph (A), the Secretary determines that a person has been criminally charged for an action described in subparagraph (B) of paragraph (1), the Secretary may extend the period of denial of approval of an application for a period not to exceed 18 months. The Secretary shall terminate such extension if the charges have been dismissed, if a judgment of acquittal has been entered, or if the Secretary determines that the finding described in subparagraph (A) was in error.

"(3) INFORMAL HEARING.—Within 10 days of the date an order is issued under paragraph (1), the Secretary shall provide such person with an opportunity for an informal hearing, to be held within such 10 days, on the decision of the Secretary to refuse approval of an abbreviated drug application. Within 60 days of the date on which such hearing is held, the Secretary shall notify the person given such hearing whether the Secretary's refusal of approval will be continued, terminated, or otherwise modified. Such notification shall be final agency action.

"(g) SUSPENSION AUTHORITY.—

"(1) IN GENERAL.—If—

"(A) the Secretary finds—

"(i) that a person has engaged in conduct described in subparagraph (B) of subsection (f)(1) in connection with 2 or more drugs under abbreviated drug applications, or

"(ii) that a person has engaged in flagrant and repeated, material violations of good manufacturing practice or good laboratory practice in connection with the development, manufacturing, or distribution of one or more drugs approved under an abbreviated drug application during a 2-year period, and—

"(I) such violations may undermine the safety and efficacy of such drugs, and

"(II) the causes of such violations have not been corrected within a reasonable period of time following notice of such violations by the Secretary, and

"(B) such person is under an active investigation by a Federal authority in connection with a civil or criminal action involving conduct described in subparagraph (A),

the Secretary shall issue an order suspending the distribution of all drugs the development or ap under an active investigation by a Federal authority in connection with a civil or criminal action involving conduct described in subparagraph (A),

the Secretary shall issue an order suspending the distribution of all drugs the development or approval of which was related to such conduct described in subparagraph (A) or suspending the distribution of all drugs approved under abbreviated drug applications of such person if the Secretary finds that such conduct may have affected the development or approval of a significant number of drugs which the Secretary is unable to identify. The Secretary shall exclude a drug from such order if the Secretary determines that such conduct was not likely to have influenced the safety or efficacy of such drug.

"(2) PUBLIC HEALTH WAIVER.—The Secretary shall, on the Secretary's own initiative or in response to a petition, waive the suspension under paragraph (1) (involving an action described in paragraph (1)(A)(i)) with respect to any drug if the Secretary finds that such waiver is necessary to protect the public health because sufficient quantities of the drug would not otherwise be available. The Secretary shall act on any petition seeking action under this paragraph within 180 days of the date the petition is submitted to the Secretary.

"(h) TERMINATION OF SUSPENSION.—The Secretary shall withdraw an order of suspension of the distribution of a drug under subsection (g) if the person with respect to whom the order was issued demonstrates in a petition to the Secretary—

"(1)(A) on the basis of an audit by the Food and Drug Administration or by experts acceptable to the Food and Drug Administration, or on the basis of other information, that the development, approval, manufacturing, and distribution of such drug is in substantial compliance with the applicable requirements of this Act, and

"(B) changes in ownership, management, or operations—

"(i) fully remedy the patterns or practices with respect to which the order was issued, and

"(ii) provide reasonable assurances that such actions will not occur in the future, or

"(2) the initial determination was in error. The Secretary shall act on a submission of a petition under this subsection within 180 days of the date of its submission and the Secretary may consider the petition concurrently with the suspension proceeding. Any information submitted to the Secretary under this subsection does not constitute an amendment or supplement to a pending or approved abbreviated drug application.

"(i) PROCEDURE.—The Secretary may not take any action under subsection (a), (b), (c), (d)(3), (g), or (h) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(j) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person that is the subject of an adverse decision under subsection (a), (b), (c), (d), (f), (g), or (h) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(2) EXCEPTION.—Any person that is the subject of an adverse decision under clause (iii) or (iv) of subsection (b)(2)(B) may obtain a review of such decision by the United States District Court for the District of Columbia or a district court of the United States for the district in which the person resides, by filing in such court (within 30 days following the date the person is notified of the Secretary's decision) a complaint requesting that the decision be modified or set aside. In such an action, the court shall determine the matter de novo.

"(k) CERTIFICATION.—Any application for approval of a drug product shall include—

"(1) a certification that the applicant did not and will not use in any capacity the services of any person debarred under subsection (a) or (b), in connection with such application, and

"(2) if such application is an abbreviated drug application, a list of all convictions, described in subsections (a) and (b) which occurred within the previous 5 years, of the applicant and affiliated persons responsible for the development or submission of such application.

"(l) APPLICABILITY.—

"(1) CONVICTION.—For purposes of this section, a person is considered to have been convicted of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal or State court, regardless of whether there is an appeal pending,

"(B) when a plea of guilty or nolo contendere by the person has been accepted by a Federal or State court, or

"(C) when the person has entered into participation in a first offender, deferred adjudication, or other similar arrangement or program where judgment of conviction has been withheld.

"(2) EFFECTIVE DATES.—Subsection (a), subparagraph (A) of subsection (b)(2), and clauses (i) and (ii) of subsection (b)(2)(B) shall not apply to a conviction which occurred more than 5 years before the initiation of an agency action proposed to be taken under subsection (a) or (b). Clauses (iii) and (iv) of subsection (b)(2)(B) and subsections (f) and (g) shall not apply to an act or action which occurred more than 5 years before the initiation of an agency action proposed to be taken under subsection (b), (f), or (g). Clause (iv) of subsection (b)(2)(B) shall not apply to an action which occurred before June 1, 1992. Subsection (k) shall not apply to applications submitted to the Secretary before June 1, 1992.".

SEC. 3. CIVIL PENALTIES.

Chapter III, as amended by section 2, is amended by adding after section 306 the following:

"CIVIL PENALTIES

"SEC. 307. (a) IN GENERAL.—Any person that the Secretary finds—

"(1) knowingly made or caused to be made, to any officer, employee, or agent of the Department of Health and Human Services, a false statement or misrepresentation of a material fact in connection with an abbreviated drug application,

"(2) bribed or attempted to bribe or paid or attempted to pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services in connection with an abbreviated drug application,

"(3) destroyed, altered, removed, or secreted, or procured the destruction, alteration, removal, or secretion of, any material document or other material evidence which was the property of or in the possession of the Department of Health and Human Services for the purpose of interfering with that Department's discharge of its responsibilities in connection with an abbreviated drug application,

"(4) knowingly failed to disclose, to an officer or employee of the Department of Health and Human Services, a material fact which such person had an obligation to disclose relating to any drug subject to an abbreviated drug application,

"(5) knowingly obstructed an investigation of the Department of Health and Human Services into any drug subject to an abbreviated drug application,

"(6) is a person that has an approved or pending drug product application and has knowingly—

"(A) employed or retained as a consultant or contractor, or

"(B) otherwise used in any capacity the services of,

a person who was debarred under section 306, or

"(7) is an individual debarred under section 306 and, during the period of debarment, provided services in any capacity to a person that had an approved or pending drug product application,

shall be liable to the United States for a civil penalty for each such violation in an amount not to exceed $250,000 in the case of an individual and $1,000,000 in the case of any other person.

"(b) PROCEDURE.—

"(1) IN GENERAL.—

"(A) ACTION BY THE SECRETARY.—A civil penalty under subsection (a) shall be assessed by the Secretary on a person by an

order made on the record after an opportunity for an agency hearing on disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this subparagraph, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(B) ACTION BY THE ATTORNEY GENERAL.—In lieu of a proceeding under subparagraph (A), the Attorney General may, upon request of the Secretary, institute a civil action to recover a civil money penalty in the amount and for any of the acts set forth in subsection (a). Such an action may be instituted separately from or in connection with any other claim, civil or criminal, initiated by the Attorney General under this Act.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Secretary or the court shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the person's ability to pay, the effect on the person's ability to continue to do business, any history of prior, similar acts, and such other matters as justice may require.

"(3) LIMITATION ON ACTIONS.—No action may be initiated under this section—

"(A) with respect to any act described in subsection (a) that occurred before the date of the enactment of this Act, or

"(B) more than 6 years after the date when facts material to the act are known or reasonably should have been known by the Secretary but in no event more than 10 years after the date the act took place.

"(c) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (b)(1)(A) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(d) RECOVERY OF PENALTIES.—The Attorney General may recover any civil penalty (plus interest at the currently prevailing rates from the date the penalty became final) assessed under subsection (b)(1)(A) in an action brought in the name of the United States. The amount of such penalty may be deducted, when the penalty has become final, from any sums then or later owing by the United States to the person against whom the penalty has been assessed. In an action brought under this subsection, the validity, amount, and appropriateness of the penalty shall not be subject to judicial review.

"(e) INFORMANTS.—The Secretary may award to any individual (other than an officer or employee of the Federal Government or a person who materially participated in any conduct described in subsection (a)) who provides information leading to the imposition of a civil penalty under this section an amount not to exceed—

"(1) $250,000, or

"(2) one-half of the penalty so imposed and collected,

whichever is less. The decision of the Secretary on such award shall not be reviewable.".

SEC. 4. AUTHORITY TO WITHDRAW APPROVAL OF ABBREVIATED DRUG APPLICATIONS.

Chapter III, as amended by sections 2 and 3, is amended by adding after section 307 the following:

"AUTHORITY TO WITHDRAW APPROVAL OF ABBREVIATED DRUG APPLICATIONS

"SEC. 308. (a) IN GENERAL.—The Secretary—

"(1) shall withdraw approval of an abbreviated drug application if the Secretary finds that the approval was obtained, expedited, or otherwise facilitated through bribery, payment of an illegal gratuity, or fraud or material false statement, and

"(2) may withdraw approval of an abbreviated drug application if the Secretary finds that the applicant has repeatedly demonstrated a lack of ability to produce the drug for which the application was submitted in accordance with the formulations or manufacturing practice set forth in the abbreviated drug application and has introduced, or attempted to introduce, such adulterated or misbranded drug into commerce.

"(b) PROCEDURE.—The Secretary may not take any action under subsection (a) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(c) APPLICABILITY.—Subsection (a) shall apply with respect to offenses or acts regardless of when such offenses or acts occurred.

"(d) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.".

SEC. 5. INFORMATION.

Section 505(j) (21 U.S.C. 355(j)) is amended by adding at the end the following:

"(8) The Secretary shall, with respect to each application submitted under this subsection, maintain a record of—

"(A) the name of the applicant,

"(B) the name of the drug covered by the application,

"(C) the name of each person to whom the review of the chemistry of the application was assigned and the date of such assignment, and

"(D) the name of each person to whom the bioequivalence review for such application was assigned and the date of such assignment.

The information the Secretary is required to maintain under this paragraph with respect to an application submitted under this subsection shall be made available to the public after the approval of such application.".

SEC. 6. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(bb) The term 'abbreviated drug application' means an application submitted under section 505(j) or 507 for the approval of a drug that relies on the approved application of another drug with the same active ingredient to establish safety and efficacy, and—

"(1) in the case of section 306, includes a supplement to such an application for a different or additional use of the drug but does not include a supplement to such an application for other than a different or additional use of the drug, and

"(2) in the case of sections 307 and 308, includes any supplement to such an application.

"(cc) The term 'knowingly' or 'knew' means that a person, with respect to information—

"(1) has actual knowledge of the information, or

"(2) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

"(dd) For purposes of section 306, the term 'high managerial agent'—

"(1) means—

"(A) an officer or director of a corporation or an association,

"(B) a partner of a partnership, or

"(C) any employee or other agent of a corporation, association, or partnership,

having duties such that the conduct of such officer, director, partner, employee, or agent may fairly be assumed to represent the policy of the corporation, association, or partnership, and

"(2) includes persons having management responsibility for—

"(A) submissions to the Food and Drug Administration regarding the development or approval of any drug product,

"(B) production, quality assurance, or quality control of any drug product, or

"(C) research and development of any drug product.

"(ee) For purposes of sections 306 and 307, the term 'drug product' means a drug subject to regulation under section 505, 507, 512, or 802 of this Act or under section 351 of the Public Health Service Act.".

SEC. 7. EFFECT ON OTHER LAWS.

No amendment made by this Act shall preclude any other civil, criminal, or administrative remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any action or civil penalty under an amendment made by this Act.

Amend the title to read as follows: "An Act to authorize the Secretary of Health and Human Services to impose debarments and to take other action to ensure the integrity of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, May 12, 1992, beginning at 2:30 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. 2021, to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes;

S. 2045, to authorize a study of the prehistoric Casas Grandes Culture in the State of New Mexico, and for other purposes;

S. 2178 and H.R. 2502, to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; and

S. 2544, to establish in the Department of the Interior the Colonial New Mexico Preservation Commission, and for other purposes.

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 Energy 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.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 14, 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. 1624, to amend the Alaska National Interest Lands Conservation Act to improve the management of Glacier Bay National Park, and for other purposes; and

S. 2321, to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes.

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 Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Williams (S. 1624) of the committee staff at (202) 224-7145 or David Brooks (S. 2321) at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON IMMIGRATION AND REFUGE AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Friday, April 10, 1992, at 10 a.m., to hold a hearing on the implementation of employer sanctions.

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

SUBCOMMITTEE ON HEALTH FOR FAMILIES AND THE UNINSURED

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Health for Families and the Uninsured of the Committee on Finance be authorized to meet during the session of the Senate on April 10, 1992, at 9:30 a.m. to hold a hearing on S. 2077, Medicaid Managed Care Improvement Act of 1991.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on April 10, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 1607, the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1991.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, April 10, beginning at 9:30 a.m., to conduct a hearing on reauthorization of the Endangered Species Act.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on April 10, 1992, at 10 a.m., on effects of changing Federal technology policies on economic development.

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

ADDITIONAL STATEMENTS

THE DREAM WITH ITS BACK AGAINST THE WALL

• Mr. SIMON. Mr. President, recently, I placed in the CONGRESSIONAL RECORD an open letter from Senior Judge A. Leon Higginbotham, Jr. to Justice Clarence Thomas.

It was a remarkable document, probably unique in our Nation's history.

As a result of that, I received a copy of remarks by Judge Higginbotham on the unveiling of a portrait of him at the U.S. Circuit Court of Appeals in Philadelphia. His remarks were printed in the Yale Law Report in the spring of 1990.

What he has to say is a reminder of how far we have come, but should also remind us of how far we have yet to go, and why we should extend the hand of friendship and opportunity to others.

We also see some people in positions of prominent academic responsibility who failed and failed dramatically.

At this point, I ask that the Yale Law Report be printed in the CONGRESSIONAL RECORD.

The report follows:

THE DREAM WITH ITS BACK AGAINST THE WALL

(By A. Leon Higginbotham, Jr.)

I cannot thank you enough for this honor. I have reason to accept it with great humility and some pride. Because I don't think I am unique, I would like to give you first an autobiographical point of view, tracing my luck and good fortune in getting into Yale Law School. How did I get here, from Trenton, New Jersey? Like everyone else: I have been the beneficiary of the significant efforts of others. We all stand on the shoulders of those who preceded us. Our success has occurred because of very special persons who walked with us when the future was uncertain, when the path was quite steep and blocked by many barriers. I'd like to recognize some of those individuals who, in a very special and intimate way, made possible my coming to Yale and this portrait.

I would like to note my late mother, Emma Lee Higginbotham, whose spirit, wisdom, decency, and indomitability were so important a part of my early life. She is a part of that portrait, not merely in a biological sense, for that is obvious, but more importantly, in an emotional sense. She was a woman who disregarded the probability curve. For if she had paid attention to it, I would have ended up working at the C.V. Hill factory in Trenton, as may father did—a laborer for forty-five years, having been late only once, and that was in the midst of a blizzard. The president of C.V. Hill used to talk about the Higginbotham boys always having jobs at his factory. My grandfather had worked there for more than four decades. My father followed that precedent, and maybe that's where I was supposed to go.

My mother had been raised in rural Virginia and was a victim of its worst racist and economic policies. She attended school for at most a few months each year and did not get past the seventh grade. When she had saved up enough money from the plot of land where she raised tobacco, she made the trip north, in fear, but in hope, in search of a life less harsh than she knew she would have if she stayed in Amherst County.

But even in the North, life was far from easy in the 1930s and '40s. I, and all of my neighbors, attended the racially segregated Ewing Park Grammar School—no, not in some southern state, but in Ewing Township, a few miles from the statehouse in Trenton, and a few miles from Princeton University. All the white children were bussed to marvelous schools, which, unlike our school, had libraries, cafeterias, gymnasiums, language teachers, science teachers. But we went to a four-room schoolhouse, where each teacher taught three grades. We did not have the superior curriculum available for all of the other students in the township: no foreign languages, no science, no hard academic options.

When we finished the eighth grade, all of the Ewing Township kids were transferred to Trenton. The whites went to the white schools, and the Ewing Park students went to Lincoln, a segregated junior high school. And no one from our grammar school in a period of forty years, had even gotten into the academic program. Why not? Because a prerequisite for the ninth grade academic program was one year of Latin. You didn't get Latin at Ewing Park. When I see students who went to Ewing Park with me now working as elevator operators, on street maintenance, or at the General Motors plant, I often wonder what their future would have been if Ewing Park had offered Latin.

But my mother worked for very wealthy people, and she was confident that with or without Latin, I was a talented as the children of her employers. And she knew that education was the sole passport to a better life. I worked, as a thirteen-year-old and fourteen-year-old boy, hustling trays at the Stacey Trent Hotel. When I was fifteen years old I committed a crime: I forged my birth certificate by moving back the year I was born in order to get a job at the Trenton Pottery, pushing a wheelbarrow up into a boxcar full of clay. I was tall; at the hotel, they didn't know I was thirteen or fourteen, and at the factory, they didn't know I was fifteen. I'd come home aching with pain. And my mother, as she rubbed me down with alcohol, would say, "Son, I don't want you to be a busboy all of your life. And I don't want you to be pushing wheelbarrows all of your life like your father. And I don't want you to do what I've done, always washing other people's dishes, cleaning other people's toilets, scrubbing other people's floors. I want you," she would look to the ceiling, sometimes, as she was rubbing my back, "I want you to be in an office, boy, wearing a white shirt and having a tie on."

So it is not surprising that this woman of such extraordinary determination made a personal visit to the ninth grade principal at Lincoln, and got me enrolled in the academic program. She talked to the principal, P.J. Hill (I never knew what his real name was; the students called him Pickle Juice), and I was registered for a second-year Latin course, though I had never had first-year Latin. It wasn't easy, not at all. But I had a very gifted teacher, Bernice Munce, and she's a part of that portrait too. She knew my disadvantage. I got a D, maybe a C-; a matter of grace, more for effort than accomplishment. She said to me, "Look, Leon, if you will ride over to my house in Hamilton Township this summer, I will tutor you."

So I rode my bike about twenty miles, two or three times a week, for about five or six weeks, never gave her even a quarter. She never knew what my future would be, but she cared about all of the kids. And with that, I was able to go on to high school, to compete effectively, and to go to a Big Ten college.

NEGATIVE MOTIVATION

I'd like to pay tribute next to the individual who forced me to recognize that I had to go to law school: Edward Charles Elliott, powerful president of Purdue University, at a time when presidents ran the universities.

There were a couple of problems at Purdue when I entered it as a sixteen-year-old freshman in 1944. There were about 6,000 white students, 12 black students. The 12 black students lived at a house that they had the temerity to call International House. We slept in an attic with no heat. And after December and January, going to bed every night with earmuffs on, sometimes wearing shoes, other times three or four pairs of socks, jackets, I decided that I should go and talk to the university president.

Monday morning at 10:00, I walked into his office by myself. And what was my radical request? Was I going to ask him to integrate the university dormitories? No. I asked if we could have a section in any dormitory, a section for 12 students, which was warm. Now if President Elliott had talked with me sympathetically, explaining his own impotence to change things but his willingness to take up the problem, perhaps to make a study, I might not have felt as I did. If he had communicated to me with some kind word or gesture, or even a sigh, that I had caused him to review his own commitment to things as they were, I might have felt that I had won a small victory, that I could go back and sleep in that attic. But he looked me in the eye, and he said, "Higginbotham, the law doesn't require us to let colored students in the dorm, we will never do it, and you either accept things as they are or leave the university immediately."

I am a lawyer today because of Dr. Elliot's negative motivation. Because, as I walked back from his office, I had a thousand thoughts. How could it be, that the law would not permit 12 good black kids to sleep in a warm dormitory? The law had been very effective in the draft. Some of my best friends had gone and died for our country. That very night, hundreds of black soldiers would run the risk of being injured in some far-off battlefields to make the world safe for democracy. And yet, the legal system that proclaimed equal justice for all would not give any semblance of dignity to a sixteen-year-old boy who had committed no wrong. I felt that I could not go into engineering, that I had to try to challenge the system.

INTEGRATING ANTIOCH

But, unlike my children today, who would have been in a sit-in in the president's office, I took my lumps—and I received quite a few. I made the Purdue debate team; we went up to Northwestern to debate. The debate coach always said, "When you're debating, be firm, speak loud, and even if you don't believe the proposition, act as if you do."

We walked into a hotel in Evanston, Illinois. The manager came up and said to me, "You can't stay here." What did my debate coach do at that moment? In a voice without any indignation or firmness he said, "Is there a colored YMCA?"

And I went to a mice-infested colored YMCA on Emerson Street. I left my classmates, got in there about 1:30 in the morning, and didn't sleep that night: there was no alarm clock. The next morning at 9:00, I was supposed to be sharp and ready.

I had the good fortune to win second place, but I also saw a professor who at a simple moment of truth wouldn't stand up. And I think it was then that I said, I'll take a football coach any time. Because two weeks earlier, my cousin, Mel Grooms, Big Ten player for Indiana University, had walked into that same hotel. No issue was raised, because Coach MacMillan had said, "If black football players can't stay here, no one from Indiana University will ever stay here again."

So I left Purdue, and I went to Antioch. I guess the major reason I feel quite comfortable in a pluralistic community, functioning with whites and blacks and others of different backgrounds, is a person by the name of Jessie Treichler, of Antioch College. She was a gifted short-story writer. She was not a faculty member; she was a special assistant to the college president, and she was white. And she felt that there was something ironic about Antioch College in 1944, which boasted of its liberalness on so many policies and educational issues, and yet had not had one black student in the college for decades. So, on her own, she created a committee to raise a race relations fund to attract black students to the college. I came there the second year the fund existed. Corretta Scott came in with me. I was the first black male to be at the college, and Corretta and I integrated that class. You may know of her as Corretta Scott King, Martin Luther King's wife and in her own right an important person in the civil rights movement. Jessie Treichler had the capacity to extend us her hand, to recognize our loneliness, and most important, to believe in us.

In 1962, when I became a commissioner on the Federal Trade Commission, I sent Jessie a letter and an airplane ticket. I was going to be the first black ever on a regulatory commission. The New York Times thought it was significant news. I wanted Jessie Treichler to be there.

CHOOSING YALE

It was a close issue as to whether I should go to Yale Law School. Burns Weston '29 was on the Antioch College Board of Trustees. Somehow or other, they told him about me. He asked to have lunch with me in my senior year. I wanted to know the difference between Harvard and Yale and Columbia. He said, "No question! Only one place to go: Yale. Don't, don't, don't get this mediocre education which Harvard will throw on you." I listened to him, and he persuaded me that Yale was the best. And I think it was, and I think it still is.

But then I went back home, and I had to talk to my father. I had gotten a partial scholarship to Yale. Jessie Treichler had found a man whom I have never met—though I have tried to see him, to thank him—Charles Noyes, a Wall Street real estate broker, who had put up a few thousand dollars from time to time, to help black students. I was a beneficiary; Eleanor Holmes Norton was also a beneficiary.

I had enough money, with what Rutgers Law School had offered me, that there would be no tuition costs. But if I came to Yale, I would have enough only for the first semester. My father and a minister talked to me. And they couldn't understand why I would choose Yale over Rutgers, when at Rutgers, everything was paid for. The minister had this clincher: "No one in Trenton who's done anything has gone to Yale!" He said, "They either go to Rutgers or to Temple, or to Trenton State Teachers' College. Nobody goes to Yale!" Nevertheless, I felt that if the mistake was going to be made, I was going to make it. I came up here with my cardboard suitcase and bellyful of determination.

When we talk these days about meritocracy, quality, and competence, we still have to think about the background from which one comes. That came home to me in my first three classes in torts, taught by the great Harry Shulman. There was a young lady next to me; her name was Alice Gilbert. The first day, he called on her; she gave an answer using nomenclature I had never heard. I had read the case, and I couldn't understand it. I thought maybe she had read a couple of cases ahead. So, next time, I read not only the case assigned but three or four other cases as well. Because there were so few black students, we weren't really in the Yale network, but I heard there was some book by Prosser. So, I went up to the law library because I couldn't afford to buy it, and started to read it, too.

The next day, Shulman called on Alice Gilbert again. She reeled off another of her spectacular answers. To be honest with you, I hadn't fully unpacked that cardboard suitcase. I was really wondering whether I should stay. The third day, the same thing happened.

Now, my mother always used to say to me, "Son, God moves in mysterious ways." I asked Alice a question, which I'm certain she has forgotten, and I don't know why I asked her. It almost borders on stupidity. I said "Alice, what's your full name? What's your full name?"

She said, "Alice Brandeis Gilbert."

Her grandfather was Justice Brandeis. Her father was a lawyer, and her mother, I believe, had her Ph.D. and also maybe a law de-

gree. My father was a laborer, two books in the house. One we had purchased, a Bible; the other, my mother had gotten out of the trash of one of the people she worked for, an old dictionary. In a race where some start twenty yards from the starting line, they may not get to the finish line at the same time. I did not begin Yale at the same starting line as many of my contemporaries.

I persevered through the first year, and I shall never forget participating in moot court finals that year. Justice Clark, of the U.S. Supreme Court, was there; John W. Davis, considered to be America's finest appellate advocate; and Judge Edwin Lewis. In my second year, I was part of a four-person team that represented Yale in the Inter-Law School Moot Court competition. My colleagues were Louise Farr, Steve Ives, and Richard Gardner—a great devotee of Professor McDougal and a Rhodes Scholar, who later got his Ph.D in economics at Oxford. We were fortunate enough to win the national first prize for the brief. My third year, I won the John Fletcher Caskey Award. I'm not mentioning these awards to congratulate myself, to pat myself on the back. I'm mentioning them because of what happened afterward.

THE A. LEON HIGGINBOTHAM, JR. FROM YALE

Wesley Sturges said in a letter he wrote to the Yale Alumni representative in Philadelphia, that I had won more honors in oral advocacy than anyone in the law school while he was there. This Philadelphia alumnus responded, "Your problem will be deciding to which law firm you want to go. Come down to visit me."

I went to visit him during Christmas break in 1951. I did all the things my mother told me: my shoes were polished, fingernails very clean, hair combed, suit pressed.

But let me tell you how I got that suit; it was through Wesley Sturges. When we were going down to New York to represent Yale on the Inter-Law School Moot Court Competition, he called me in. He said, "Leon, I'm proud of you. Here's a check. Why don't you buy a suit." You see, like every other black kid in my law school class, I purchased only second-hand suits, from a place on Whitney Ave. These were good-quality clothes, because on a football weekend, when the wealthy students had to entertain the girls from Wellesley and Smith on the limited allowance their fathers had given them, they could always sell some of their suits to raise extra money. The problem is that if you are 6'6", and you're buying the suit of a 6-footer, it shows a bit in the sleeves.

So I wore my new suit, one that fit, and went to see the Yale representative in Philadelphia. I walked into his office in the Girard Trust Building and said, "I'm Leon Higginbotham."

The secretary said, "Well, are you A. Leon Higginbotham, Jr.?"

I said, "Yes."

"I mean A. Leon Higgingbotham, Jr. from Yale Law School."

And I said, "Yes."

I walked in, and the Yale representative looked me in the eye and said, "Marvelous record, Dean Sturges has written a great letter in your behalf. Of course you know there's nothing I can do for you, but I can give you the telephone number of two colored lawyers, and maybe they can help you."

I said to him, "Sir, if the only thing that an Eli representative can do is give me two telephone numbers, I can find those myself. Don't burden yourself."

I went down the elevator in the Girard Trust Building, and I cried. I mean it. I cried because I thought of my mother. I thought of all the dishes she had washed, all the floors she had scrubbed, all the pain she had suffered. And after seven years, I couldn't get a job.

THE YALE TRADITION

I got one, ultimately. Tom Emerson called up some people, John Frank called up some people, and I got a clerkship with Justice Bok of the Pennsylvania Supreme Court. I don't know why I was so upset. It was not as if I were unique. Bill Coleman, a black student who finished Harvard Law School magna cum laude and then clerked for Justice Frankfurter, also couldn't get a job in Philadelphia when he first applied after his Supreme Court clerkship.

But there were Yale people who did a lot for me. I want to mention one now, particularly: John Frank. I lived at 258 Star Street, because I couldn't afford to live on campus. There was a corner store where on Saturday, at 6 o'clock, I'd be there: I would get all the leftover hamburger the guy had—sometimes it was brown, sometimes it was gray—and take it home and cook it. John Frank seemed to know I was struggling. He offered me a job a job, paying me $1.50 an hour. But for John Frank, I wouldn't have been able to eat. That is one thing Yale did for me.

John Frank made a difference. And there were a lot of other people on this faculty whom I shall never forget: Myres McDougal, Boris Bittker, Charles Clark, all of whom gave me dignity. I loved them for it.

But some day you have to leave, to go back into the outside world. Do you know what was so great? The Yale tradition never abandoned me. I came to Philadelphia after the clerkship. Where could I go? I couldn't go with the law firms.

A Yale graduate by the name of Richardson Dillworth had become district attorney a year earlier. Until Dillworth became district attorney in Philadelphia, no black lawyer had been permitted to try a case as an assistant district attorney in the regular trial courts. People like Mercer Lesis, who had graduated from Harvard and spent twenty years in that office, was never allowed to get above the magistrate's court. And people who had gone to schools that were certainly no better were in eight months or a year trying major felony cases. Dillworth just said, "Look, I'm going to choose the people in my office on the basis of whether I feel they can do the job."

And he changed that whole system. At that time there was not one black judge in the state common pleas court. Dillworth brought in assistant D.A.'s who handled everything. That was then an amazing phenomenon. He put me in the appellate division.

Finally, there's one other great Yale figure: J. Austin Norris. When the High Court of History decides the great American lawyers, it will choose not merely those who informed the Supreme Court of the right direction to go; it will also choose those who gave backbone to later generations to go forward. Austin Norris used to say—and I don't mean to be disrespectful—"I don't give a damn about the big firms. We'll whip 'em, and we'll be as good as they are, even though we'll have only four or five lawyers." Norris had the capacity to take young men and force them to recognize that if you persevere, you'll make it. I've always said that he was a true and great hero.

Why have I focused, in this speech, on my humble background? Not for accolades for Leon Higginbotham. Today, on the streets of New Haven, and Philadelphia, and Chicago, and New York, there are thousands of other kids who would do the same thing as I did if they didn't get pushed out of the academic system. If we had more Bernice Munces, if we had more Jessie Treichlers, if we had more John Franks.

So, when my portrait hangs, I don't want it to be considered a portrait of a unique individual in the history of the school, or in the history of the society. I truly believe that there are many others, many who could do what I have done.

I want my portrait to stand for someone who had the opportunities, the good fortune, and the support that, ideally, our society should give to all its citizens.

The greatness of Yale is not its age but its mission. And what makes Yale even greater today is its pluralism. Yale's greatest days are not those in its past, when women and blacks were unheard of on the faculty and were barely visible in the student body. Today more than ever our students come from all states, they practice different religions, they represent all races. In this milieu of erudition and diversity the best in all of us is brought out.

I hope we give to young people today what I was given: determination and discipline, a willingness to face the odds and come up again and again in pursuit of justice. I hope they come out with a vision they would otherwise not have known.

I hope they will be competent technicians. But I ask them also to think about what Dr. Martin Luther King said and what a black poet said.

King said, "I have the audacity to believe that people everywhere can have three meals a day for their bodies, education and culture for their minds, and dignity, equality, and freedom for their spirits." And when the High Court of History looks on Yale, it will not ask small questions on forum non convenients, or even the uniform commercial code. It will ask, "Have we been part of a system to make this world better, so that more people can have three meals a day for their bodies, education and culture for their minds, and dignity, equality, and freedom for their spirits?" That is what Yale must stand for in its finest and most noble hours.

I will close with a poem, which says to me what Yale is or what Yale should be about. It's by Langston Hughes, a great poet, who happened to be black.

There is a dream in the land
With its back against the wall
By muddled names and strange
Sometimes the dream is called.
There are those who claim
This dream for theirs alone—
A sin for which we know
They must atone.
Unless shared in common
Like sunlight and like air,
the dream will die for lack of
substance anywhere.
The dream knows no frontier or tongue,
The dream, no class or race.
The dream cannot be kept secure
In any one locked place.
This dream today embattled,
With its back against the wall—
To save the dream for one
It must be saved for all.

TRIBUTE TO PRESTONSBURG COMMUNITY COLLEGE PHI THETA KAPPA

• Mr. McCONNELL. Mr. President, I rise today to recognize the Alpha Nu Zeta chapter of the Phi Theta Kappa

International Honor Society. That chapter is located at Prestonsburg Community College in Prestonsburg, KY, and recently won several honors at the society's annual international convention.

The PCC chapter of Phi Theta Kappa received two highly competitive awards at the national convention in Washington, DC in late March. Those awards are: A Distinguished Chapter President Award and a Giles Distinguished Advisor Award. Ms. Linda Smith, a sophomore from Prestonsburg and PCC's chapter president, received the Distinguished Chapter President Award for her outstanding demonstration of leadership, involvement, friendship and enthusiasm. Prof. Hassan Saffari, PCC's chapter adviser, received the Giles Distinguished Advisor Award for his superior and dedicated involvement in chapter activities and service to Phi Theta Kappa on the local, regional and international level and for his leadership as an advocate of the local chapter.

These international awards, the first ever received by Kentuckians, were well deserved. Only 15 awards were given in each category from a candidate pool representing over a thousand chapters. In addition to promoting scholarship and honors study, the Alpha Nu Zeta chapter of Phi Theta Kappa has been very active in college and community development projects and programs, including promoting more awareness about funding issues and the legislative processes.

In addition to claiming prestigious international honors, the Prestonsburg Community College chapter received several regional honors at the 1992 regional conference in London, KY. They claimed all major regional awards, including the Chapter Service Award and the Distinguished Chapter Award. Ms. Smith received the Outstanding Officer Award and Mr. Saffari received the Horizon Award. The Alpha Nu Zeta chapter was also given the Five Star Chapter Award at the regional convention. Even more recognition came when Prestonsburg Community College President Deborah Floyd was named Kentucky's presidential ambassador to Phi Theta Kappa. That responsibility includes working with other Kentucky community college presidents to promote the scholarship and leadership goals of Phi Theta Kappa.

I commend the students, faculty and administration at Prestonsburg Community College for their commitment to higher education and scholarship. It gives me great pride to talk about the many accomplishments of PCC's Alpha Nu Zeta chapter of Phi Theta Kappa, and I congratulate all persons involved in that organization on their achievements.●

DOUGLAS LEFT ENDURING MARK

● Mr. SIMON. Mr. President, Steve Neal is the political editor of the Chicago Sun-Times and writes a column for the Chicago Sun-Times.

But perhaps his more lasting contribution will be in the field of history where he has written biographies of people like Wendell Willkie and Charles McNary. He did a superb job of pulling together some of the writing of former Senator Richard Newberger under the title, "They Never Go Back to Pocatello."

Recently, he had a column paying tribute to Senator Paul Douglas on the centennial of his birth.

It summarizes the Douglas legacy well.

I ask to insert the Steve Neal column into the RECORD at this point.

The column follows:

[From the Chicago Sun-Times, Apr. 5, 1992]

DOUGLAS LEFT ENDURING MARK

(By Steve Neal)

He was among the last of the giants.

In the U.S. Senate of the 20th century, Paul H. Douglas of Illinois left an indelible mark on American life. With his white hair and craggy features, he was born for the role.

Douglas, who represented Illinois in the Senate from 1949 through 1967, was a transplanted New Englander. The senator, who was born 100 years ago last week in Salem, Mass., grew up in a log cabin in the Maine woods. "This may help to explain some of the weaknesses and the strengths of my character," he wrote in his memoirs. He shared the values and flinty independence of his regional brethren Robert Frost and Henry David Thoreau.

He moved to his adopted state in 1920 when he became a professor of economics at the University of Chicago. Douglas soon emerged as one of the more outspoken critics of utility mogul Samuel Insull. After the Great Crash, Douglas was frequently consulted by politicians, including New York Gov. Franklin D. Roosevelt, about how to deal with unemployment. When Roosevelt became president, Douglas was among the architects of the Social Security system.

Douglas, a fighting Marine, wouldn't have much use for Vice President Dan Quayle, who used family connections to avoid serving in the Vietnam War, though Quayle was an outspoken hawk. Douglas might have had more sympathy with Democratic presidential candidate Bill Clinton, who opposed the Vietnam War but put his name into the draft because he thought it would look good politically. Douglas was a genuine war hero. In 1942, at the age of 50, he pulled strings to join the Marines, not to help him politically but because he thought it was the right thing to do. He received two Purple Hearts and a bronze star in the Pacific. His arm was shattered and permanently crippled at Okinawa. Douglas, who was a major, didn't want special treatment. He told medics that he was a private. Douglas lived the role that John Wayne played in "The Sands of Iwo Jima."

The late Col. Jacob M. Arvey, then chairman of the Cook County Democratic Central Committee, slated Douglas for the Senate in 1948 to challenge Republican Sen. Wayland Brooks. Arvey also tapped Adlai E. Stevenson II for governor. Douglas and Stevenson proved to be such attractive candidates that they overwhelmed the Republican incumbents and helped Harry Truman narrowly win Illinois and the presidential election.

In looking back on this century's notable senators, Douglas ranks high on the short list, just below Robert M. La Follette Sr. of Wisconsin and George W. Norris of Nebraska, about even with Hubert H. Humphrey of Minnesota and above Robert A. Taft of Ohio, J. William Fulbright of Arkansas, Wayne L. Morse of Oregon, Lyndon B. Johnson of Texas and Jacob K. Javits of New York.

"There is no member of the Senate who has attempted his name on more major issues, major bills and major legislation than Paul Douglas," Humphrey said, describing his colleague as "a giant of a man and a giant of a senator."

Douglas led the fight for the passage of the first civil rights legislation since Reconstruction in 1957, then, later, for the historic 1964 civil rights bill. He was among the first prominent senators to stand up to Sen. Joseph R. McCarthy in the early 1950s for his abuse of civil liberties.

He was an environmentalist long before there was such a word. Through the force of his personality, he saved the Indiana Dunes, sponsoring the legislation that made it a national shoreline.

Douglas wrote the legislation that increased the minimum wage to a dollar an hour and the law that required disclosure of union and management pension funds. "Back in the days when they had almost no chance of enactment," Humphrey recalled, "Paul Douglas was a sponsor or co-sponsor of medicare, federal aid to elementary education and aid to higher education."

He would probably have been a great president. But like Webster, Calhoun and Clay, Paul H. Douglas showed that some legislators can leave a more enduring mark than mediocre presidents.●

REWARD DEMOCRACY IN TAIWAN

● Mr. MACK. Mr. President, it is ironic that, at a time when the United States is seriously considering strengthening diplomatic ties to North Korea and Vietnam, our relations with Taiwan remain frozen. This sends the wrong signal to emerging democracies all over the world. We can and should reward democratic reform in Taiwan by ending the de facto ban on high-level diplomatic contacts between our two governments.

As a Washington Post editorial on December 30, 1991, observed, Taiwan's democratic reforms are an important example to Communist China and "In this way Taiwan's progress serves China's people as well as its own." I agree, and we should reward Taiwan, not continue to snub them diplomatically.

It is enough that we do not have formal diplomatic relations with Taiwan; we should not send the message that their democratic reforms are being ignored by continuing to refuse to meet at high levels with the Taiwan Government.

I believe that is in our interest, in terms of addressing many important trade and other issues, to raise the level of our contacts with Taiwan and to do so now. Taiwan is one of our largest trading partners. It holds the larg-

est foreign reserves in the world, and it is making significant investments here in this country. This means jobs and economic growth in this country at a time when it is sorely needed. The United States should not be unnecessarily limiting the potential of the warm relations between our two countries.●

TRIBUTE TO CORBIN

● Mr. McCONNELL. Mr. President, I rise today to recognize Corbin, a town in southeastern Kentucky.

Corbin is spread over the three counties of Whitley, Knox, and Laurel. Downtown Corbin lies in a trough-shaped valley nestled by steep hillsides.

Corbin residents have a lot of pride in their area and community. Framed by the beautiful landscape of the Daniel Boone National Forest, Cumberland Falls has attracted tourists from around the world for decades. Laurel Lake offers recreation and enjoyment almost year round.

Besides the natural beauty, the real strength of Corbin is their citizens. No one better represents these hard-working, forward-looking citizens than Corbin's most famous resident, Col. Harland Sanders. Colonel Sanders, fortified with only his Social Security check, hit the road with his herbs and spices mix. By the time of the colonel's passing, Kentucky Fried Chicken franchises were worldwide.

In the 1960's, this entrepreneurial spirit rose again in Corbin. It was in the 1960's that many feared that Corbin would wither with the completion of Interstate 75. They worried that the local vendors may move away from the downtown business district. Rather than leading to conflict, the community formed an economic development group to explore opportunities to bring new business and industry into the area. These leaders put aside their own interests for those of the town and the results speak for themselves.

Today, Corbin can boast the Baptist Regional Medical Center, American Greeting, and CSX as the pillars of its economy. Corbin also has a large mining industry that employs over 1,000 workers. There can be no doubt, Corbin is a confident and viable community.

The town of Corbin is a special place in Kentucky. The town should be heralded as one of Kentucky's finest towns and genuine Hometown, USA.

Mr. President, I ask that the following Louisville Courier-Journal be printed in the CONGRESSIONAL RECORD.

The article follows:

RAILROADERS, REPUBLICANS AND REDHOUNDS CALL IT HOME

(By C. Ray Hall)

For a railroad town Corbin makes it fairly exasperating to keep track of things. Like, for instance, where you are, exactly. Officially, Corbin sprawls into two counties, Whitley and Knox. Unofficially, it slops over into a third, Laurel. But the part that rests on Laurel, called "North Corbin," exists only in people's heads.

Corbin's most famous citizen ran a motel and restaurant in this neverland called "North Corbin." The ham breakfast that made him famous with Florida-bound tourists was advertised thusly; "$1.70—not worth it, but mighty good." In his kitchen, he fiddled with pressure cookers and invented Kentucky Fried Chicken. Then he invented himself, Col. Harland Sanders, and his face became as recognizable as that of another American invention, Mickey Mouse.

The restaurant, restored in honor of the 100th anniversary of his birth, holds much memorabilia, including a Col. Sanders weather vane. It has an "S" on one side an "N" on the other, and an I-shaped prong in the middle, propping up the colonel, so he appears to be standing on "SIN." Or perhaps he's stomping out "SIN," like Carrie Nation, the temperance guerrilla who supposedly came through town wielding, her ax on Saloon Street when Corbin was a young pup of a town.

The weather vane is a little like North Corbin: You've got to believe it to see it. The rest of Corbin can be seen and believed, and maybe even clucked over, a little bit, in a wistful way. It gives the appearance of a mature city that has had its days and come to terms with being bypassed. There is an enormous bustle out by Interstate 75, with cars whistling past sporting license plates from Canada and Florida. In town, they just sort of hum through, sporting license plates from Clay County to Pulaski County.

Thomas Thurston, the courtly 77-year old mayor, recalls the apprehension that gripped many people in the 1960s, when I-75 slithered past Corbin like a concrete snake.

"Everybody thought that Corbin would dry up, that it would be deserted, and thought that we'd never have over a dozen cars a day coming up Main Street," he says.

But the town didn't go away. If you drive down Center Street past the CSX overpass and take the hairpin left turn onto Main Street, you're keeping company with far more than a dozen cars. Twenty thousand cars a day pass under the CSX bridge, sort of in genuflection to the railroad, which breathed life into the town a century ago.

John Daniel, who had a clothing store in downtown Corbin 40 years before retiring says: "I think one thing that kept downtown alive is that most of the people were born and raised in Corbin and they just weren't going to let it die. The people down in this end of the state, southeast Kentucky, they've got a lot of pride."

Corbin won the state basketball championship in 1936, with a 6-foot-6 "giant" named Marion Cluggish, who transferred up from the county seat, Williamburg. ("Recruiting?" asks the mayor, with a mischievous smile.)

Even so, Corbin is most noted for football. This is perhaps astonishing, considering the school's ominous introduction to the sport in 1923. Corbin lost its first game to Pinesville 159-0 (or 142-0; accounts vary). Worse yet, a Corbin player named Willie Cadle was killed in the game. Football gave the town more lore: In the Thanksgiving Day game at Pinesville in 1930, the field was covered with snow; the yard lines were marked off with coal dust. The "Redhounds" won state Class AA championships in 1976, 1980 and 1982.

Corbin High principal Ray Tipton is actually proud of the 16th ranking the school system received in achievement tests a couple of years back. Banners in the school cafeteria salute the scholars, not the football players. The home of the Redhounds is also a congenial place for water fleas and fathead minnows—two species the Environmental Protection Agency uses to measure the purity of water. If the water is good enough for fathead minnows, it's good enough for people.

But you don't have to be a fathead minnow to enjoy Corbin's water. The most interesting store in town, surely, is the one where people stand knee-deep in Victorian elegance and whimsy and answer the phone, "Poynter's Plumbing."

The new building, a red-brick affair with swooping ceilings, is as elegant as any of those new restaurants up Lexington way, and it's a lot more fun. It's also one of the few places where you can buy a red English telephone booth (for $1,500); or an aviary stocked with finches; or statues of flying pigs or rabbits in tuxedos. You can also get a shower big enough to entertain two or three of your closest friends, and a bathtub built for two. Poynter's is an adult's garden of Earthly delights; if Victorians had had a Sharper image, this would be it. You might ask what is such a place is doing in a town of 7,419. Owner Jerry Poynter notes that 90 percent of the customers are from out of town.

Poynter and his wife, Billie, put up their plumbing-and-sugarplums place last year. "We tore down what was probably the ugliest building in Corbin," he says. (It must be said that several contenders for the title remain.)

Corbin's boisterous neighbor up north, London, is perhaps the gauge by which it measures its contentedness, or its lethargy. London keeps growing, and making noises about community colleges and leviathan shopping malls and other amenities. Some Corbinites grumble that the newspaper, the Times-Tribune ("Kentucky's Best Small Daily Newspaper"), seems to be tilting toward London. This rivalry is nothing new.

John Daniel, born in London but settled in Corbin, says: "They've had a little faster growth. . . . Laurel County is a pretty wealthy county. . . . They seem to be able to get after the politicians and maybe twist their arms a little harder than we have in Corbin on several projects."

One thing Corbin has learned—as any mature city does—is the limits of power. It hasn't been able to annex "North Corbin," with its eminently taxable stretch of motels, chain restaurants, and the American Greeting card factory. Whitley County has suffered from a paucity of friends in high places, says utilities manager George Paul Rains.

There may be subterranean forces at work, too, impossible to measure, but as black-and-white as the snow-covered football field marked by coal stripes.

"One of the most astounding things to other people I come in contact with," Rains says, "is that inside the city limits, there are no black families. . . . A community 10 miles north of here, London . . . 20 miles south of here where I came from, 15 miles east over in Barbourville, all of these communities have 10, 15 percent or so black families. . . . Inside the city limits of Corbin, there are no black families that have chosen to come to this area. That has been true during the whole 25 years I've lived here."

Fast-food restaurateur Jesse Backer, a newcomer who covets growth for Corbin, suggests: "We may have to bend over backwards to project a positive image to the rest

of the nation. We may have to do what Dubuque, Iowa, did, and recruit (black families) to get rid of the 'racist' label."

Every so often, something happens to bring the issue to the surface. Recently, there was a highly publicized Ku Klux Klan non-parade. Before that, there was "Trouble Behind," a documentary film by Danville native Robby Henson that looked at a 1919 incident in which a predominantly black railroad construction crew was chased out of town in what has generally been characterized as a "race riot."

"It was not a race riot," insists longtime Corbin resident Allen Dizney, folk historian. He notes that the evicted workers included several whites, and he questions reports that 200 shots were fired. People in those days shot too straight to fire 200 times without hitting anybody, he says. He also notes that the L&N sent another integrated crew to Corbin, and it finished the job without incident.

Whatever gives rise to Dizney's defense of Corbin, it is apparently not a desire to paint the place in the pastel hues of peace and goodwill. He is a gadfly in the ointment that otherwise soothes Corbin's self-image, a writer of letters to the editor and a campaigner for many causes, including billboards on the interstates (restrictions on them have helped keep the Cumberland Falls area from becoming another Gatlinburg, he says ruefully).

"It's a sight what Kentucky is missing simply because we've got people that belong to the garden clubs that don't want signs out on the highway," he says. "They want people to look at scenery. Well, they don't spend dollars when they look at them trees. If they want to see trees, let 'em go into a state park."

Some corners of Corbin—especially Depot Street (since renamed Lynn Avenue in a bid to exercise some grimy history)— could be rough when he was a paperboy in the 1930's. "Those were wild times," he says. "I had three customers killed down there."

Dizney recalls the time when he had collected at a joint called the Flamingo. This exchange ensued with the owner.

Owner: "How's collections?"

Paperboy: "Not too good."

Owner: "Who owes you down here?"

Recalling that conversation of more than 50 years ago, Dizney says: "I told him. He called one of the whores and said, 'Go back there and get him some of that fresh pie and a glass of milk and set with him. I'll be back in a minute.

"They had good cooks. And the girls that were prostitutes during the Depression weren't bad girls. They were making money—probably 50 cents a time—to take money home to feed their families. . . .

"He went up the street and done my collecting, came back in a few minutes and spread the money out on the bar. He said, 'The next time anybody owes you on this street and don't pay you on Saturday morning, you let me know.'"

So there you have it: Prostitutes serving milk and apple pie to schoolboys, and bar owners shaking down people who refuse to pay the paperboy.

How bad can any place be that defends the First Amendment so fiercely?•

THE FDA DRUG APPROVAL PROCESS

• Mr. MACK. Mr. President, the tragic and shocking news that tennis great Arthur Ashe has contracted AIDS has renewed concerns over the extensive, burdensome Government regulation involved in approving life-saving pharmaceutical drugs. Many advances have been made in recent years by America's pharmaceutical industry. However, the new drug approval process destroys the hopes of millions of Americans with life-threatening diseases who must have the right to use prescription drugs that could save their lives without Government overregulation.

The American people are tired of placing their lives, and the lives of loved ones, on hold while the Federal Government decides for someone else whether a pharmaceutical should be used. A recent poll conducted by the Gallup organization found that 70 percent of those surveyed believe the Federal Government should move more quickly in approving new drugs.

The American people are tired of being held down by Government regulation. They are tired of Government intervention in their lives. That includes the overregulated process of drug approval.

For terminally ill Americans—those with AIDS, Alzheimer's disease, or cancer—the drug approval process is cruel, and it should be an outrage to us all. New prescription drugs have been developed to help treat patients with life-threatening diseases, but many will never make it to the shelf of their neighborhood pharmacy. This is due, in large part, to the Food and Drug Administration placing layers upon layers of bureaucracy on the process by which it approves lifesaving new drugs.

The hopes of terminally ill Americans are often tied to a remote chance that a new drug may be available to restore their health in some small way. But even if that drug exists, the Federal Government is denying this right to Americans because of bureaucratic redtape. It is morally wrong to answer the prayers of the terminally ill with a resounding no.

Mercifully, Mr. President, this is finally beginning to change. Vice President QUAYLE, the Council on Competitiveness, HHS Secretary Sullivan and FDA Commissioner Kessler have worked tirelessly on streamlining the process by which new drugs receive FDA approval. I commend them for the initiatives taken yesterday, which will cut the approval time for drugs to treat life-threatening illnesses by approximately half. They have also taken a bold step by permitting AIDS patients to have access to experimental therapies, even if the patient is unable to participate in an FDA clinical trial. These actions could mean the difference between life and death for thousands of Americans.

I would like to see this same initiative taken on behalf of other terminally ill patients. I recently introduced legislation to express that it is the sense of the Senate that the FDA should revise the approval process to incorporate a means by which all terminally ill patients, following consultation with and approval from their physicians, may have access to experimental drugs awaiting FDA approval. I urge my colleagues to join me in this effort. It is also my strong hope that the Competitiveness Council will work to quickly implement the initiatives called for in my legislation.

Let's listen to the American people and find a system that works to restore the hopes of terminally ill Americans and get the Government to end this cold-hearted process that keeps potentially life-saving drugs away from those who have nothing to lose and maybe everything to gain.•

ANTI-SEMITISM

• Mr. SIMON. Mr. President, recently, I spoke about the precarious situation in the Nagorno-Karabakh region, which lies in the Transcaucan area of the former Soviet Union. The present unrest in that region has exacerbated long-held tensions between Azerbaijan and Armenia and has pushed those two nations to the very brink of an all-out war. The repercussions for ethnic minorities in each country who may literally be caught in the middle are potentially terrible.

In keeping with the focus of my past and future statements, I will explore the possible effects of the Nagorno-Karabakh conflict, as well as anti-Semitism, as they affect the Jewish population of Azerbaijan.

As has been widely reported, the battle over Nagorno-Karabakh is an ethnic conflict involving Armenian guerrillas and their corresponding Azeri forces over a small mass of land with an Armenian majority within Azerbaijan's borders. It, however, may not be as well known that in this interethnic conflict, other minority groups such as Jews are being caught and killed in the crossfire. Already there have been documented cases of Jews beaten severely and told that the Azeris will deal with their kind once the Armenians are taken care of.

Rather than being a tangential event, unrelated to the fighting over Nagorno-Karabakh, these violent expressions of anti-Jewish sentiment are an outgrowth of the present situation. The nationalistic fervor with which each side has pursued their interests in Nagorno-Karabakh invokes intense feelings of hatred further driving the cycle of violence. In many instances, though, this deep-seated hatred is displaced from its intended victims and can be found directed at third parties. This prospect terrifies the Jews of Azerbaijan.

In its assessment of the situation, the National Conference of Soviet Jewry [NCSJ] stated in a report earlier

this year, "All reports suggest that the bulk of the anti-Semitism that has been observed thus far emanates from individuals and groups pushing nationalistic and chauvinistic themes."

A disturbing factor to the Jews in Azerbaijan is the rise of Islamic fundamentalism among the majority Moslem Azeri population. The NCSJ report expresses their fear that Moslem fundamentalist movements will give rise to rampant anti-Semitism in the Central Asian region. Widespread rumors of Azeri involvement in a confederation of Moslem states sent tremors through Baku's Jewish population. Although Azerbaijani ties to elements in Iran, Iraq, and other extremist organizations have not yet produced large-scale anti-Semitism, those same links stand as a reminder to the Jewish population of the frailty of their existence and of the extent to which their minority rights are controlled by their enraged countrymen.

Facing an uncertain future with problems at every turn, these intense nationalistic and fundamentalist undercurrents threaten to drown the freedoms of minority groups throughout the Transcaucasus region, especially in Azerbaijan. Nationalism and fundamentalism in and of themselves are not evil, but we must be careful, lest they be subverted for vile intentions.

Perhaps most ominous, though, is the possibility of state-sponsored anti-Semitism in Azerbaijan. Numerous accusations have centered on the Azerbaijani OVIR office in Baku, which controls emigration of Jews from the country. The escalation of fighting in Nagorno-Karabakh has led to increasing numbers of Jews trying to flee Azerbaijan for the safety of Israel or the United States. The OVIR office in Baku, however, has apparently placed barriers along the path of emigration. According to Miron Gordon, an Israeli diplomat charged with overseeing the issuance of visas at the Israeli consulate;

> We can do our part within several weeks. But the Baku OVIR (emigration processing office) has been intermittently closed, and the Moscow office does not seem willing to process Jews from Azerbaijan.

Some claim that these new barriers are the beginning of doors closing on free emigration for Jews in Azerbaijan due to anti-Semitic sentiment in the Government. Others offering a defense of the new Government claim the delays are merely a function of inadequate manpower in the OVIR office and a paper shortage for passports.

If the U.S. Department's public and diplomatic warnings last September are accurate indications, however, there is some foundation for believing anti-Semitism may have played a role in slowing down Jewish emigration from Azerbaijan. The State Department warned the former Soviet Republics not to violate the emigration law passed by the Supreme Soviet in May of 1991; the warnings signaled our Government's response to reports that Azerbaijan and Uzbekistan had reinstated restrictive emigration laws, particularly with respect to Jews. Furthermore, the State Department included a statement in its 1991 Country Reports on Human Rights Practices that read:

> Corruption in the passport and visa-issuing offices—exacerbated by a shortage of new passports—remained a major impediment to unrestricted emigration and travel abroad, especially in Azerbaijan, where it is reportedly widespread.

Whatever the case, there are two points on which there is no argument. First, no one can doubt that these delays threaten to keep Jews hostage in an acute situation that may explode at any time. Second, as documented in recent studies, the delays experienced by Azeri Jews in Baku are substantially longer than their counterparts in other cities around the former Soviet Union.

There are a few hopeful signs. In 1987, Baku became home to the first officially sanctioned Hebrew language course, outside of the universities. More recently, the Jewish organization, Alef, has begun operating a Sunday school, a newspaper, a theater and a counseling center all for Jews and all in Baku.

Nevertheless, recent events have dampened the enthusiasm these positive steps had evoked. The resignation of Azerbaijani President Ayaz Mutalibov early last month has led to fears that Azerbaijan may fall into the hands of more militant, hard-line leaders. The situation calls for our immediate attention.

As I have stated on previous occasions, self-determinism and independence are worthy goals in and of themselves, but when the freedom and rights of minority groups are disregarded for the benefit of the majority, democracy cannot ever prevail. And, if there is one thing everyone in this body must agree on, it is that now is the time when we must do all that is within our power to see that democracy prevails in the states of the former Soviet Union. For us, for them, and for future generations, we must protect the rights of minorities and ensure that the end of the cold war marks the beginning of true democracy in these newly independent states.•

THE DOMENICI-SPECTER ECONOMIC GROWTH PACKAGE

• Mr. MACK. Mr. President, last night my colleagues, Senators DOMENICI and SPECTER, brought to the floor an economic growth package which takes a large step in the direction toward the road to economic recovery. Their perseverance and dedication to this task of trying to bring forward a growth package to accommodate Senator's on both sides of the aisle is certainly commendable. I wholeheartedly applaud their efforts to respond to the continuing economic problems our country faces, and particularly those in my State of Florida. It is important to continue to try and find a set of initiatives to boost the economy up which Congress can agree.

My only caveat to their proposal is my own disapproval of Congress' artificial requirement that tax cuts be paid for by revenue increases. I believe we should provided growth incentives without raising taxes, fees or initiating other revenue raisers simply to conform to the abstract standard of revenue neutrality.

Nevertheless, I am pleased that my colleagues have put forth this package. And, I look forward to working with them on the economic growth elements.•

TRIBUTE TO BELLARMINE COLLEGE

• Mr. MCCONNELL. Mr. President, I rise today to honor an outstanding Kentucky college, recently named one of the top 20 private colleges and one of the top 10 midsize schools in the United States by Money magazine. Bellarmine College in Louisville, where I have the privilege of teaching a course each weekend, truly deserves this national recognition.

Bellarmine College has about 2,400 students. About half of them are full time, but only about 325 live on campus. The school's campus consists of 15 buildings located in the midst of several small hills where a plantation once stood. Bellarmine's small size enables it to boast of a 15 to 1 student-teacher ratio. However, that is not the only thing for which the liberal arts school should be commended.

Bellarmine College's growing national reputation is based largely upon extraordinary statistics. Ninety percent of Bellarmine's premed students get into the medical school of their choice. Seventy-four percent graduate within 5 years. Almost all Bellarmine students—99 percent—were ranked in the top half of their high school classes. In addition, 82 percent have above average ACT or SAT college entrance exam scores. And, 94 percent of Bellarmine's athletes graduate within 4 years. These factors, as well as the fact that Bellarmine is a relatively inexpensive private college—approximately $10,000 a year—led Money magazine to also name Bellarmine one of the 50 best educational values for the past 2 years.

Bellarmine College was founded in 1950. Only three presidents later, the school has built a strong base of tradition and purpose. Its first president, Msgr. Alfred Horrigan, served until 1973. His successor, Eugene Petrik, spent 17 years at Bellarmine's helm. During his tenure, Bellarmine strengthened its ties to the business community and broadened and solidi-

fied its financial base. Currently, President Jay McGowan, installed in October 1990, continues to promote Bellarmine's strengths.

Mr. McGowan says Bellarmine College is a school with a definite mission to teach students the value of a traditional liberal arts education. According to Mr. McGowan, "We want our students to be able not only to make a living, but to make a life worth living." He concedes that the national attention of Money magazine could spark a significant enrollment increase, but overall, he says Bellarmine should remain small to retain its sense of purpose.

Mr. President, I commend the students, faculty and administration at Bellarmine, as well as the Louisville community, for maintaining such a fine institution of higher learning. Please enter the following article from the Lexington Herald-Leader into the RECORD.

The article follows:

RANKING HELPS BELLARMINE SPREAD WORD

(By Glenn Rutherford)

LOUISVILLE.—For the last two years, Money magazine has rated Louisville's Bellarmine College one of the 50 best educational values in the country.

This year, the magazine also ranked Bellarmine among the top 20 private colleges and among the top 10 midsize schools—those with student populations between 1,600 and 4,000.

The 15 buildings that make up the Bellarmine campus sit atop a row of hills on land—once a plantation—that rolls gently westward to Beargrass Creek.

It's a beautiful campus, as motorists on Newburg Road can see. But many who pass by never realize what a jewel of a college sits on the hills.

Even the people at Bellarmine sometimes take the school's national reputation for academic excellence—and value for the dollar—for granted.

Bellarmine's president, Joseph "Jay" McGowan Jr.—only the third president in the school's 42-year history—says that when he came aboard a year and a half ago, he found that "even the people of Bellarmine didn't know how good the school was."

"Maybe it's the 'grass is always greener' syndrome," McGowan said recently. "But they didn't really know. To a large degree, part of what I've done is simply tell Bellarmine about itself."

The school's growing national reputation is based, in part, on some glowing numbers:

90 percent of its pre-med students get into the medical school of their choice.

74 percent of its students graduate within five years.

99 percent of the students rank in the top half of their high school classes.

82 percent have what Money magazine called "well-above average" ACT or SAT college entrance exam scores.

94 percent of Bellarmine's athletes graduate within four years.

All the attention in the last two years from Money magazine has helped spread the word about Bellarmine. So has a 1991 grant of $237,000 for teaching enhancement from the Knight Foundation.

McGowan recognizes that in this part of the country, a college that costs $10,000 a year is not inexpensive, regardless of what Money magazine says.

What students get for their money, however, is a student-teacher ratio of 15 to 1. The college also provides an education that will "help you think on your feet," said Bellarmine graduate Steve Magre, an accountant and member of the Louisville Board of Aldermen. "We were taught to be independent thinkers. I owe that to Bellarmine, I was taught to appreciate the real value of a liberal arts education."

Dr. Linda Gleis, president of the Jefferson County Medical Society—Bellarmine Class of '74—said the college provided her "with standards to live by, regardless of which profession you pursued."

"One of the most significant aspects of Bellarmine," she said, is that the professors there are first and foremost teachers. Because of that fundamental commitment to the liberal arts, a Bellarmine student develops a broader perspective—you learn that your role in life is not just your job, but your place in the community."

A LIFE WORTH LIVING

What they are about, he said, is providing education a firm, traditional liberal arts foundation.

"If we train an accountant, we want him to be an accountant with a soul," McGowan said. "We want our students to be able not only to make a living, but to make a life worth living."

In doing so, McGowan said, the relatively young school "stands poised to become the premier private, liberal arts college in the region."

Like the college he heads, McGowan is young—47, with a face, voice and demeanor that seem even younger than that. He came to Bellarmine from Fordham University in New York, where he was dean of students and where his son, Joe, plays for the Rams basketball team.

The chance to take the helm at Bellarmine "is an opportunity you'd wait a lifetime for," he said.

AN EDUCATIONAL VALUE

The school is small, with a student population of 2,400. About half of them are full-time students, and of those, only 325 live on campus.

By the region's standards, Bellarmine is a bit pricey, although its admissions office says its cost is still 33 percent below the average cost of private colleges nationwide.

"All those things are a nice affirmation of just what we are about here at Bellarmine."

"* * * Gleis and Bellarmine English professor Wade Hall agree that the college has become a resource for Louisville, a solid piece in the city's educational fabric.

"I think the new administration is determined to make Bellarmine better known, less a well-kept secret." Hall said "I also think Bellarmine has a mission, and that's something a lot of schools don't have."

The mission, as explained by McGowan, Hall and others, has been defined over the years by the school's relationship with the Archdiocese of Louisville, and by the hands of its three presidents.

Bellarmine was founded in 1950 and its first president was Monsignor Alfred Horrigan, who served as the school's president until 1973, when Eugene Petrik moved into the job.

Under Petrik, Bellarmine strengthened its ties to the business community and broadened and solidified its financial base. "Petrik had a marvelous entrepreneurial sense," McGown said. "Through him the school expanded its business and nursing schools and began offering adult continuing education."

Petrik spend 17 years as Bellarmine's president; McGowan was installed in October 1990.

Much of the school's success, Gleis said "is perhaps a case of having the right person in the right place at the right time."

The school might grow a little in the future, its president said, but not much. McGowan would like to have perhaps 800 to 900 students living on campus.

"I think it's important that Bellarmine remain small," he said. "And I think it's important that Bellarmine retain its sense of purpose and its mission.•

REFLECTIONS ON MATHEMATICS AND SCIENCE EDUCATION

• Mr. HATFIELD. Mr. President, I rise today to comment once again on an issue which is vital to our Nation's economic interests—the future of mathematics and science education in our schools.

Recently, Mr. President, we have heard great debates over the necessary steps to secure our Nation's economic prosperity. Several themes consistently emerge during these discussions, namely increasing investment and encouraging research and development. Whatever the specific proposals may be, they all rest on two underlying assumptions: First, our ability to create and master new technologies, and second, the ability of our workers—if given the necessary resources—to do just that. The first premise is unquestionably true. The Bureau of Labor estimates that in the next 3 years, 415,500 jobs requiring engineering degrees will be created. Yet unless we take drastic steps in the near future, our labor force will not productively occupy these positions and the second premise will not be met.

Recent statistics released by the Department of Education further illustrate this point. From the years 1977 to 1986 the score for the average 17-year-old student in mathematical proficiency increased only 0.7 percent with only 6.4 percent of all high school seniors capable of performing multistep problems and algebra by 1986. Science proficiency scores fared no better, actually decreasing by .38 percent. More alarming are scores on the Scholastic Aptitude Test from 1979 to 1989 for those students interested in the crucial occupations of our future. Mathematics scores for those entering the field of biological sciences, engineering, and physical sciences, increased 1.9 percent, 2.7 percent, and 2.8 percent respectively. Science is excluded altogether on the SAT's. Only one conclusion can be drawn from these results: Our educational system is producing a generation of vastly underqualified workers at a time when technologies are evolving at a seemingly exponential rate.

Unfortunately a recent Washington Post article entitled "Students' Comprehension of Science Called Shallow"

shows no signs of change. Fewer than half of our Nation's high school seniors were shown to be capable of interpreting scientific data, evaluating science experiments, or showing in-depth knowledge of scientific information. Average science achievement remained roughly the same from 1970 to 1990 while one in four seniors have never even worked on a science project. In our public schools only 54 percent of seniors had taken 1 year or more of chemistry while between 10 and 30 percent of eighth grade teachers felt ill-prepared for the classes they were teaching. There is little hope that the state of mathematics is any different. Clearly these figures must be dramatically improved if we are to speak realistically of investing in this Nation's future.

Mathematics and science education have always been a major concern of mine; just 2 months ago I delivered a floor statement outlining how poorly our students stand up to international comparison. Good math and science education is imperative not only because of its value to scientists, engineers, and our economic future, but also, as the National Center for Improving Science Education describes them, because they are "learning to learn skills." By emphasizing analytical and rational thought they are skills—just like reading and writing—which provide every student with a basis for future learning regardless of the field of interest.

Improving our children's performance in these areas will not be easy. Certainly increased funding is necessary to provide our teachers and students with the proper tools for education. Education, however, is much more than just money; it involves motivating our students, ensuring our teachers are well qualified, and stressing in our curricula and assessments the importance of these two subjects. In short, it requires a concerted effort on behalf of all segments of society. But most of all, it requires strong leadership.

This is why each of us must make education the top priority in our States. We are now at a critical point where there is no longer time to waste; We must stress to our State legislatures and our communities the threat we face and we must initiate programs that will include everyone in the education of our youth. No one is exempt from their responsibility, for we all have a personal stake in the results as well as an obligation to our children to give them a fighting chance for success.

I ask that the article to which I referred be printed in the RECORD.

The article follows:

STUDENTS' COMPREHENSION OF SCIENCE CALLED SHALLOW

(By Mary Jordan)

A new national test shows a majority of students failing to grasp all but the most basic science skills and little difference between the scores of students attending private of public schools.

Overall, the test administered to 20,000 students in the fourth, eighth and 12th grades, showed that fewer than half of the nation's high school seniors could interpret scientific data, evaluate science experiments or show in-depth knowledge of scientific information.

The majority of students in all three grade levels showed proficiency with basic science facts, but not with the tougher tasks of applying or analyzing them.

"It's disappointing," said Education Secretary Lamar Alexander, "But we know why: we have not made science a priority." The remedy, Alexander said, is "less television, more homework, and a more demanding curriculum."

Parris C. Battle, a member of the National Assessment Governing Board, said the results indicate that "overall, average science achievement in 1990 was just about where it was in 1970, even though the world certainly changed in 20 years and has become more demanding and complex."

Between 10 and 30 percent of the eighth-grade science teachers interviewed for the study felt ill-prepared for the classes they were teaching. They said the equipment they use was out of date and that their schools placed a low priority on science education.

High school seniors scored an average of 294 on a 500-point scale.

Students in private schools did not fare significantly better than those in public schools. In Grades 4 and 8, students in private schools outperformed those attending public schools by 10 to 14 percentage points on the 500-point scale. But by Grade 12, the scores of public school students on the congressionally mandated National Assessment of Education Progress test were about the same as those of Catholic and other private school students.

When comparing only students who had taken more advanced science courses, the scores of public and private school students were virtually identical.

"This is really shocking because kids in private school have more advantages," said Albert Shanker, president of the American Federation of Teachers. Along with the privilege of setting entrance standards and rejecting failing students, Shanker said private schools have a "much higher percentage of kids whose parents went to college and that means the parents make a lot more money."

Studies have consistently shown a direct correlation between socio-economic attainment and academic achievement.

But Assistant Secretary of Education Diane S. Ravitch said private schools place more emphasis on advanced sciences, and the higher scores of private schoolchildren at the lower levels should not be discounted.

"There is still a difference," she said. "In public school you are far less likely to take chemistry, because no one tells you to."

According to the survey only 54 percent of the seniors in public school had taken chemistry for one year or more, compared with 71 percent of private school students. Likewise, only 28 percent of public school students had taken a year or more of physics, compared with 39 percent of those in private schools.

The results showed several other patterns: white students performed significantly better than black students; those living in the Northeast had higher scores than those in the Southeast; and males in the eighth and 12th grades fared slightly better than females.

Only 25 percent of the high school seniors taking science courses said they were given two or more hours of homework in the subject each week. One of every four seniors said they never once worked on a science project.

Teachers were also interviewed as part of the survey, and only 4 percent of those interviewed said they used computers as part of the classwork.

The test results also showed a strong correlation between doing well and living in a wealthier part of a metropolitan area. Between 60 and 70 percent of those who scored in the top one-third of the test lived in "advantaged urban" communities and between 64 and 81 percent of the students who fell into the worst category lived in "disadvantaged" communities.●

HATE CRIMES

● Mr. SIMON. Mr. President, once again, I rise to address the issue of hate crimes and the unfortunate prevalence of racial scapegoating in this Nation. This is a problem which is not going to go away. We can no longer look at it as a series of isolated incidents. Instead, we need to recognize that the name calling and graffiti, the discrimination, and the threats and violent crimes are all sings of an alarming trend. It is for this reason that I will continue to monitor and report about the crimes in the Senate record. Only by addressing this issue head-on, and by acknowledging the prevalence of the problem, will we finally begin to make strides toward successfully dealing with this unwarranted prejudice.

The Washington Post recently ran an article about Japan-bashing in California. The article discussed a recent incident in Los Angeles involving an elementary school teacher who asked her students for their reactions on the recent awarding of a multimillion-dollar contract to Sumitomo Corp. Not only were these elementary school children in favor of canceling the contract, but in addition, they expressed blatantly anti-Japanese sentiments. One student wrote: "Americans, Yes. Japanese, No; Vote Again! Before the Japanese Bomb the U.S.A. Again."

Mr. President, it is obvious that we need to send a clear message to both young and old that racial discrimination and prejudice are intolerable. I ask to insert into the RECORD at this point the full text of the March 29 Washington Post article.

The article follows:

JAPAN-BASHING APPEARS TO INTENSIFY IN CALIFORNIA

(By Michael Abramowitz)

LOS ANGELES—During recent controversy here about awarding a major transportation contract to Sumitomo Corp., an elementary school teacher asked children to express their views about the issue that was fast becoming a symbol of U.S.-Japan trade tension. Mayor Tom Bradley, who received their letters, was taken aback, an aide said.

Many of the letters urged cancellation of the contract, some expressing blatantly anti-

Japanese sentiments. One student scrawled out a leaflet with the message: "Americans, Yes. Japanese, No: Vote Again! Before the Japanese Bomb the U.S.A. Again."

Such letters, some community leaders said, are a troubling sign of a serious decline recently in civility and tolerance toward Japanese nationals and Japanese Americans as a consequence of worsening relations between the United States and Japan. Even Southern California, where about one-tenth of the population is Asian in origin and economic ties with the Orient are strong, has not been immune.

"The current round of hostility is much more intense than I can recall," said Dennis W. Hayashi, national director of the Japanese-American Citizens League, a civil rights group. "I remember tensions in the early 1980s, but nothing on the order of what's happening now in terms of the violence of the attacks."

Rep. Robert T. Matsui (D-Calif.), 50, who spent part of his early childhood in a Japanese-American detention center, said anger toward Asian Americans no longer is limited to states hard hit by Japanese automobile imports. "Today, it is all over the country, and I think the reason for it is that there is a lot more Japanese influence in the country now," he said.

In its annual study of hate crimes released earlier this month, the Los Angeles County Commission on Human Relations reported 54 hate crimes against Asians in 1991, the most since it began keeping data more than a decade ago. Only six were directed expressly against Japanese Americans, but commission officials said graffiti and epithets used in many of the other frequently were anti-Japanese, regardless of the victim's origin.

The study jibes with a recent report from the U.S. Civil Rights Commission, which linked a rising tide of Japan-bashing to increased cases of discrimination and violence against Asian Americans.

While blacks, Hispanics and Jews remain numerically the target of more hate crimes in the Los Angeles area, community leaders and government officials here also cited anecdotal evidence that attacks against Japanese Americans may be increasing in intensity.

Late last year, vandals scrawled graffiti saying "Nips Go Home" and "Go Back to Asia" on the Norwalk Japanese American Community Center and, in a separate incident, slashed car tires in the parking lot. A Japanese restaurant in Lompoc was firebombed, and other Japanese-American groups have received bomb threats. A girl scout selling cookies in front of a supermarket here recently was called a "Jap" and told, "I only buy from Americans."

The situation has degenerated so much that, in describing the current environment, some community leaders referred to the nation's worst act of anti-Japanese racism and hysteria in this century—internment of thousands of Japanese Americans during World War II.

Some people who experienced the trauma of the internment tell me that, in the past 50 years, they haven't seen anything like this," said Stewart Kwoh, executive director of the Asian Pacific American Legal Center here. Ron Wakabayashi, executive director of the city's Human Relations Commission and a longtime Japanese—American activist, said that, until recently, he has been mystified by the level of hatred toward Japanese during that internment. But in light of recent events, he said, "I have started understanding it a little bit.

"Everyone has a recent story of being called a 'Jap' or being flipped off," he said. "I don't think the community feels terrified. But I think that the community understands the environment can lead to anti-Japanese feeling. They understand that there's been a shift."

Civic leaders here attribute these shifting sentiments to complex insecurities stemming from difficult economic times, increasing immigration from the East and the United States' changing position in the world. Before U.S.-Japanese trade tension flared anew recently, anxiety was high in the Japanese-American community here about reaction to the 50th anniversary of the Pearl Harbor attack. Meanwhile, leading Japanese and U.S. politicians have exchanged angry accusations, fanning public opinion.

In Los Angeles, furor about awarding a railway car contract for more than $128 million to Sumitomo resulted in cancellation of the deal but not without stoking further community resentment about Japanese business investment in the United States. Now, a "Buy America" measure requiring the city to give bidding preferences on contracts to California and Los Angeles-area firms has been placed on the June ballot, a move that ired Bradley.

In an unusual speech last month, the mayor lashed out at unnamed public officials for fueling "dangerous hysteria" against the Japanese with their "mindless criticism of Japanese companies." Citing anti-Japanese feeling in the student letters, Bradley said, "These school children at least have the excuse of being young and impressionable. Unfortunately, adults should know better."

But Bradley has been denounced by advocates of the "Buy America" campaign for fanning racism by raising the issue. They said the ballot measure simply reflects a common sense desire to foster creation of jobs and businesses here.

Japanese businesses here are likely to feel substantial fallout. "I think that, until the election is over, you won't see any local government give contracts to foreign companies," said Steven C. Clemons of the Japan-America Society of Southern California. "The whole process has been put on hold."

Clemons and other observers said people on both sides of the Pacific should reevaluate and manage their relationship better. Tachi Kiuchi, chairman of Mitsubishi Electronics America in Cypress, Calif., and a longtime U.S. resident, said he frequently advises his employees to expand contacts with Americans beyond golf games.

"We isolate ourselves," Kiuchi said of Japanese nationals in California. "We don't do things for the community. It is a two-way problem, but I blame ourselves."

Japanese-American leaders said they advocate a similarly aggressive strategy of political involvement. Noting the historical propensity of many Asian Americans to keep quiet and avoid politics, Kwoh said, "This is an opportunity for Japanese Americans to speak out. To suffer in silence is to invite more attacks."•

CHILDREN'S DEFENSE FUND REPORT

• Mr. ROCKEFELLER. Mr. President, I would like to bring to the attention of my colleagues a comprehensive report by the Children's Defense Fund entitled "Falling by the Wayside: Children in Rural America." This is a thoughtful and sobering look at the situation of children of poverty growing up in rural regions of our country—an area of poverty all too often and unfairly cast into shadow by concerns about urban poverty.

This report is intended to raise our consciousness about these youth, who constitute fully a quarter of all children in poverty. It also explodes the deeply established myth that it is cheaper to raise children in rural areas and exposes startling facts about the conditions which rural children must face. For example:

Fact: Rural children are more likely to be poor—22.9 percent lived in poverty in 1990—than nonrural children—20 percent. The rural child poverty level has been rising dramatically over the past two decades, from 16.6 percent in 1973, to 17.3 percent in 1979, to 22.2 percent in 1989.

Fact: Rural children, 42 percent, are more likely than their city peers, 33 percent, to go a year or more without their regular medical checkup. Rural areas have less than half as many physicians per capita than metropolitan areas.

Fact: Rural students attend schools that on the average face higher costs with lower revenues. In the last year for which data are available, 1982, rural communities spent about 10 percent less per student than metropolitan communities.

The true situation is that rural poverty is at a higher level than in metropolitan areas, that available health care is inadequate, both in quality and quantity, to meet the needs of the children, and that children are not receiving the basic education that they need in order to function as a contributing member of society. There are programs which attempt to address these problems, but they must be expanded and supplemented. We can improve the system.

My State, West Virginia, is rural, and, therefore, this report addresses many of my personal concerns about the care and well being of children. But these concerns should be shared by everyone since rural communities exist in every State.

In West Virginia, as in the other States, there is a strong tradition of a caring, nurturing family environment. Economic realities and shifting demographics, however, have shaken the ability of the parents to preserve this environment by themselves. They need our help, now more than ever before, and we need to summon the commitment and will to provide it.

The problems that affect families are problems shared by every State throughout the Nation. Moreover, these are problems which will affect everyone in the Nation, as rural children enter into the urban and suburban work force. We must recognize these problems on several levels. We must move quickly, specifically to ease the

suffering of the innocent young, and most effectively bring them into the social and economic mainstream, as well as more generally to preserve the future of our Nation through its most valuable resource—the children.

As the chairman of the National Commission on Children, I am honored to note that several of the Commission's recommendations are cited in the Children's Defense Fund report. These recommendations are designed to encourage fundamental values of hard work, strong families, and self-sufficiency. They include: First, a refundable tax credit on a per-child basis, used to reduce taxes or to be paid to the family if there is no tax liability; second, increased earned income credit for low-income working parents; third, a national child support insurance program, and fourth, creative approaches to job creation. This support for our proposals is deeply appreciated, and moves us closer to establishing solutions for these deeply troubling problems.

I wish to commend the exhaustive and meticulous research completed by the Children's Defense Fund, as well as their commitment to ensuring that the facts are presented in a realistic and straightforward manner. It has illuminated an area which desperately needs our attention. This report is a call to arms in a battle we cannot afford to lose—for the sake of the children and the sake or our own futures.•

ELECTRIC VEHICLES

• Mr. SIMON. Mr. President, a recent article by Lesley Hazelton published in the New York Times discusses a subject that should be of interest to all of us—the electric car—the car of the future.

Automobile ownership is expected to increase worldwide by up to 50 percent in the next 20 years. We do not need any further evidence to know the consequences of such an increase. The environmental and energy problems that will result from the use of many more gasoline-powered cars will be monumental. The air pollution and oil consumption will create problems that simply will be intractable.

But we are taking steps in the right direction, Mr. President. The energy bill this body passed in February would require the use of alternative fuels or electricity for all Government fleets and most commercial ones by the year 2000. The House is currently working on a similar bill.

New environmental regulations have already been adopted in California, and are under consideration in 10 Northeastern States, including New York. The California regulations are intended to clean up the current gasoline-powered car: they mandate lower emissions standards, starting in 2 years. But they require that by 1998, 2 percent of all new cars sold by automakers with California sales exceeding 3,000 a year will have to be zero emission vehicles, or ZEV's; by 2001, 5 percent; and by 2003, 10 percent will have to be ZEV's.

There is no turning back, Mr. President. It is clear that we must move to widespread use of the electric car, and this fact is becoming widely recognized throughout the Nation and throughout the world.

The article I am submitting concerns the Impact, the electric car designed by General Motors. I had an opportunity to drive the Impact last fall when GM had a demonstration here in Washington, and it was a pleasant experience. The article is a fascinating history of the development of the car.

As with any new technology, there are problems that must be resolved. The lead-acid batteries used in the Impact take 3 hours to recharge, and the range of travel before recharging is limited. The cost of the electric car today is prohibitive.

But I believe these problems can be resolved. The big three automakers, along with major utilities and the Department of Energy have formed the Battery Consortium to develop an efficient battery. The use of hydrogen-powered electric cars at some point is also a very promising possibility.

Over the long term, the cost of electric cars will decrease. In the meantime, we must find ways to encourage their production and use. Last year I introduced a bill to provide a tax deduction of 25 percent of the cost of the purchase price of a new electric-powered automobile. And I am looking into other ways in which the Federal Government can help motivate people to purchase electric cars.

There is great interest in the electric car abroad. Japan wants to have 200,000 electric cars in use by the year 2000, and Europe will not be far behind.

We cannot lessen our effort. A number of U.S. auto companies are working on electric vehicles, and we must encourage them in every way we can. We must get on the cutting edge of this technology, Mr. President, before other nations move ahead of us.

I request that this article be inserted in the RECORD, and I urge each of my Senate colleagues to read it.

The article follows:

ELECTRIC VEHICLES

(By Lesley Hazleton)

It looks like a futuristic show car: silver, with swooping aerodynamic lines. Just another sporty "concept" car, you think, until you get behind the wheel.

Then comes a moment of disorientation. There's no gearshift, you learn, because there's no clutch and no transmission. Just two small electric motors, one for each of the front wheels. A long hump down the center floor of the car looks rather like the one in old sports cars; but instead of a driveshaft there's a line of 32 lead-acid batteries under it.

Now you see the dials, which are centered just below the steeply raked windshield. Motor temperature, check. Miles per hour, fine. But then there's a dial for battery charge, marked in percentages. And another—the ammeter—marked in amps. Driving this car, you realize, requires a different frame of mind.

Turn the key, and nothing seems to happen. No sound, no vibration. but press the button marked F for forward and step on what you can't help thinking of as the gas pedal, and the force of acceleration suddenly has you pushed back against the seat.

You didn't expect this. You realize you're smiling. Surely a sexy electric car is an oxymoron.

Until this car's debut in 1990, it was. The car is the Impact, a General Motors prototype designed to break the conceptual mold of electric cares as glorified golf carts. Though there's some way to go before it will be fit for the market—the suspension is rock hard and the motors whine like an animal in pain—G.M. has scheduled it for production in the mid-1990's, at a price reportedly about $25,000.

The Impact is a major precursor of what appears to be an impending new era in cars: a radical change from gasoline to electricity. Even as auto makers struggle through the recession, they have been forced into an expensive, high-stakes race to determine the future.

Fueling the race, as it were, are new environmental regulations introduced by California and now under consideration in 10 Northeastern states, including New York—potentially, a total of just over a third of the United States new-car market.

The aim of the regulations is to clean up cars, which by most accounts produce up to two-thirds of all urban smog and a quarter of the greenhouse gas carbon dioxide. The California program man-dates progressively lower emissions standards, starting two years from now. At first, these can be met with alternative fuels—reformulated gasoline, compressed natural gas, alcohols like ethanol and methanol—and with improved combustion technologies.

But these measures will probably only produce a holding pattern on smog and greenhouse gases. As James J. MacKenzie of the World Resources Institute notes, "with auto ownership worldwide forecast to rise by up to 50 percent in the next 20 years, we simply cannot conserve our way out of the problem." Thus, the ultimate requirement of the new regulations: By 1998, 2 percent of all new cars sold by auto makers with California sales exceeding 3,000 a year will have to be Z.E.V.'s or zero-emission vehicles; by 2001, 5 percent; and by 2003, 10 percent will have to be Z.E.V.'s.

"The die has been cast," MacKenzie says. "The only way to do this is an absolutely fundamental change in the character of the auto: its propulsion system." the hot technology of the internal-combustion engine—known in electro-speak without any apparent irony as ICE—will have to give way to the cool one of electricity, the mechanical engine to the electrochemical one.

As developments in major industrial markets go, all this has happened very fast, and most auto makers are now scrambling to catch up, investing heavily in R&D for what they still consider an uncertain market. Much of the research is directed at batteries, because at this stage no purely electric car can go more than about 100 miles before stopping for several hours to recharge. As a result, it looks as though many of the first electrics will be "hybrids"—electric-drive cars using batteries together with small gas-

oline engines to recharge the batteries and extend the car's range. Some researchers say that a battery powerful enough to drive a pure electric as fast and as far as a gasoline car may well be on market by 1998. And in the longer run, researchers are looking to hydrogen-powered fuel cells to replace batteries.

"This decade is going to be by far the most exciting ever in cars," says Paul MacCready, head of Aerovironment, the company that led the Impact development team. "It's going to be somewhat like the 30's in aviation, when you went from canvas and sticks to airliners and fighters in just a few years."

MacCready is not the kind of man you would expect G.M. to trust farther than it can see: too iconoclastic, you would think, for a major American corporation. A three-time United States national soaring champion, he designed a series of solar-powered planes in the late 70's. Then, in what seemed the height of eccentricity, he led a team that built a huge radio-controlled, wing-flapping, flying replica of the largest animal ever to have flown—the dinosaur-age *Quetzalcoatlus northropi*, or pterodactyl, with a 36-foot wingspan. That, he said, was to show the connection between the evolution of natural flight and technological flight.

Far from a mad scientist, though, MacCready is a restrained, cerebral, intensely practical engineer with a Ph.D. in aeronautics from Caltech and a long string of awards and honors. No fewer than five Aerovironment inventions have been acquired by the Smithsonian, including the Gossamer Condor plane—the first plane powered solely by a human to achieve sustained, controlled flight—and the Sunraycer car, G.M.'s record-breaking entry to the first World Solar Challenge Race in Australia in 1987.

After the Sunraycer's success, G.M. bought 15 percent of MacCready's company and gave him and his team the go-ahead to develop an electric car. They were apparently thinking of it primarily as a show car, but MacCready had other ideas. In just under a year, his team developed the Impact, with its top speed of more than 100 m.p.h. and acceleration from 0 to 60 m.p.h. in eight seconds.

Most electric cars developed in the previous 20 years had been conversions of gasoline cars. They worked, but not very well. By redesigning the car from the ground up, MacCready's team transformed the electric car from a technological oddity into a stylish practicality.

They literally reinvented the wheels: made out of aluminum, with tires specially designed to reduce drag, they help make the Impact so energy-efficient that if it were to run on gasoline, it would use only one-third the amount required by a typical internal-combustion car. And in a process known as regenerative braking, the brakes themselves act as small generators, feeding energy back into the batteries and recharging them.

"We had to rethink the whole question of automotive design from the point of view of efficiency the way it's pursued in the aerospace industry," MacCready says, sitting in his sparse office in Monrovia, Calif. "And the odd thing is that nobody had ever looked at a car from that point of view before. There'd never been any need to."

MacCready is no car enthusiast. He puts down the American obsession with high-powered, energy-intensive cars in his low-key, slightly sardonic manner: "If you look at birds like the albatross, you'll see they can spend days soaring over the ocean, with magnificent maneuverability. Then at the other end of the spectrum, there's the peacock, stuck on the ground, flying at most up to a low branch. The mechanical part of a peacock's flying function is minimal, so much effort goes into other things like the large tail, which hampers flying but boy, does it make the females quiver."

The Impact promptly made a lot of auto journalists quiver, a thing they normally do only for peacock cars. The Impact's team had created the automative equivalent of a peacock that could fly like an albatross, proving, as MacCready says, that "styling and efficiency don't have to be incompatible." And the very fact of its existence undoubtedly influenced California's decision to go ahead with electric-vehicle regulations. MacCready had demonstrated that the technology already existed.

With several more states looking closely at the California program, support for electric car production seems to have already "passed critical mass," as one advocate puts it. The European Community will probably adopt a similar measure in the next few years, as will Japan, which already aims to have 200,000 electric cars on the road by the year 2000. Meanwhile, in February the Senate overwhelming passed a bipartisan energy bill mandating the use of alternative fuels or electricity for all government fleets and most commerical ones by 2000. a similar if somewhat weaker house bill is expected before the Easter recess.

But some critics call this unseemly haste. Rushing a new technology onto the market may be counterproductive, they say. David E. Cole, director of the University of Michigan Office for the Study of Automotive Transportation, argues that scientific research on pollution and the greenhouse effect is still contradictory. He warns that demanding that Detroit right now invest in a whole new technology could further jeopardize the position of the American auto industry.

James P. Womack, a principal research scientist in technological policy at the Massachusetts Institute of Technology, cautions that Detroit's problems could yet undermine the new regulations. "There's always the possibility that laws can get changed," he says. "It's true there hasn't been much inclination to believe Detroit when they've said they couldn't do something, and then done it under the regulatory gun, as with catalytic converters. But if you get to the late 90's and Detroit says they can't make the deadlines for financial reasons it's quite possible there'll be delays in the mandates. So I don't know how much voltage there is, so to speak, behind the regulatory drive for electronics. There's a lot of room for poker-playing here."

Now that the Japanese have entered the poker game, however, nobody can afford to drop out. "A whole electric-vehicle industry has suddenly come into being," one auto executive says. "Our Rolodexes have been transformed in the past year." And even though the regulations call only for a gradual conversion to Z.E.V.'s, the major producers know they will have to be there when the laws kick in.

Some companies, including Ford and Chrysler, are working on electric vans rather than cars. Their assumption is that Federal legislation and market signals virtually guarantee that the initial demand for electrics is more likely to be for service and delivery vehicles than for private cars. But many others are going straight for the far larger private market, and their cars are attracting a lot of attention, both from potential buyers and from other companies.

The first modern electric car to come onto the American market is scheduled to start production a year from now. Code-named the LA301, it was commissioned by the city of Los Angeles and will be built by a small British-Swedish consortium called Clean Air Transport. A four-passenger hybrid commuter car, it runs on lead-acid batteries plus a small gasoline engine that cuts in above 30 m.p.h. or when peak power is needed, extending the car's 60-mile electric range to over 150 miles. It doesn't have the flair or technical sophistication of the Impact. And because of its small production run—1,000 in 1993 and 5,000 in each of the two succeeding years—its projected cost is $25,000.

A prime contender for the mid-90's is the Volkswagen Chico, a small city runabout. Another hybrid, it uses a two-cylinder gasoline engine to recharge nickel-hydride batteries. The batteries alone give it a range of 12 to 13 miles for nonpolluting city driving, while the gasoline range is about 300 miles, with a top speed of 81 m.p.h. Some early reports price it at a very attractive $7,000, but initially it is likely to cost far more.

Volkswagen is also working on a joint venture with Swatch to produce electric cars, capitalizing on the Swiss watchmaker's reputation for inexpensive quality.

In Japan, radical prototypes have pointed the way to a more powerful electric future. Nissan introduced its F.E.V. (future electric vehicle) last year, with nickel-cadmium batteries fully rechargeable in just 15 minutes, compared with a minimum of three hours for most other batteries. That, however, is at 440 volts, which is far beyond home capacity and therefore impractical right now.

Another Japanese prototype is setting an interesting precedent: it was developed not by an auto maker but by Tokyo Power and Electric, the largest privately owned utility in the world. Its Iza is a sleek four-seater with nickel-cadmium batteries, a top speed of 109 m.p.h. and a record-breaking range of 340 miles. The Iza is an expensive proposition, however, and is not scheduled for production.

BMW intends to produce two sophisticated electrics—the E1, promptly dubbed "the electric egg" by the automotive press because of its shape, and the larger E2 sedan unveiled in January at the Los Angeles Auto Show, with sodium-sulfur batteries, rear-wheel drive, a top speed of 75 m.p.h. and a maximum range of 267 miles. To Americans, one of the most striking features of the E1 and E2 is that they are the first BMW's to be powered by American-made motors. and these come not from a major supplier, but from a small company called Unique Mobility.

At first blush, Ray A. Geddes, the mustachioed chairman of Unique Mobility, is an unlikely proponent of electric technology. A lawyer with an M.B.A. from the University of Michigan, he spent 12 years at Ford's GT and sportscar manager, supervising Shelby Cobras, high-performance Mustangs and the like. In 1981, he got a call from his cousin, a radiologist who had invested in Unique Mobility. "He was worried about the way the company was going," Geddes says. "He wanted me to come help protect his investment." Like all good Detroit people at the time, Geddes scorned the very idea of electric cars. "I had to be dragged in," he says, grinning. "Definitely under duress." Yet what he saw was so interesting that by 1983 he was working full time at the firm's headquarters in Englewood, Colo.

Unique had built a novel direct-current motor that looked so promising that Geddes

decided to sell off the company's real estate—including race track—to concentrate on its development.

Standard electric motors pose a difficult trade-off for engineers. They can be designed for torque, which provides acceleration, or for power, which allows steady operation at high speed. But getting both characteristics—which is what most American drivers expect in a car—in a motor that is sufficiently small, light and inexpensive for a mass-marketed automobile is a vexing problem.

The patented Unique motor uses less iron and copper than regular electric motors, making it lighter. More important, the motor's copper wire is wrapped in a special configuration and the current is controlled electronically to provide acceleration or high-speed cruising power as needed, and without a transmission. It is thus extraordinarily efficient, producing up to two horsepower per pound of motor weight—almost twice as much as the Impact's variable-speed AC motors and more than five times that of conventional DC motors.

Though Geddes may have gotten out of racing, the racing hasn't gotten out of him. Pinned to his office wall are engineering drawings for an electric Grand Prix race car. "Racing can accelerate this technology," he says, "just as it did for gasoline technology. Eventually, electric-drive race cars with a motor in each wheel will run circles around other kinds."

With the legendary racing figure Carroll Shelby a former board member of Unique Mobility and still a shareholder, it may not be that long until the drawings move from Geddes' wall to the production studio. And another future indicator is the fact that the company's largest shareholder, Alcan, is working on an aluminum-air battery with 10 times the energy density of lead-acid, and far longer life due to an exchangeable aluminum cassette that can simply be inserted into the battery casing.

The battery connection is important. Electric motors are well advanced, but batteries have a long way to go. In fact, the phrase most used about batteries is "the Achilles' heel of the electric car." Right now, they provide too limited a range, take too long to recharge and have too short a life to make electrics fully competitive in cost and performance with gasoline cars.

The range problem is more psychological than practical, but none-the-less real for that. The average daily trip of an American car is 22 miles, well within the range of even the most modest electrics. But drivers don't like to think of themselves as average. And the limitations challenge a basic piece of American mythology: the freedom to range.

The energy and durability of batteries present more serious problems. Right now, new batteries mean an expenditure of some $1,500 every two years or so. And no single kind of battery seems to do everything that's needed. Sodium sulfur, for instance, holds about three times the energy per pound weight as lead acid but typically delivers that energy to the motors less than half as fast.

The lead-acid batteries in the Impact produce nearly twice the energy per pound weight of current car batteries—"we think our battery people sneaked some kryptonite in there," jokes one of the engineers working on the production model—and take only three hours to recharge. But three hours is about 2 hours and 57 minutes too long when compared with the "recharge" time for gasoline motors.

Detroit's Big Three have joined with major utilities and the Department of Energy to form the Advanced Battery Consortium, a billion-dollar effort to develop the ideal battery. The group's goal is to extend battery life to 5 years by 1994 and to 10 years by the end of the decade, while simultaneously bringing down costs and extending range.

Meanwhile, auto makers and utilities are on the verge of agreement on a standard charging system, while the National Highway Traffic Safety Administration has begun setting safety standards for electric cars. For a change, auto makers are hoping the agency acts swiftly; nobody wants to put a car on the market that suddenly has to meet new safety standards.

The standards are likely to include disabling mechanisms to disconnect the batteries from the rest of the car automatically during servicing and in crashes, thus preventing electric shock. They may also require that batteries be sealed and packed behind flame barriers to prevent explosions and keep toxic and often highly corrosive acids from spraying the cars' inhabitants in an accident.

Despite the intensive investment of time and money, batteries may be only an interim means of powering the electric car. The ultimate problem is that the electricity to charge them still has to be produced somewhere. In the first few years, as electric cars are phased onto the market, the present power capacity will suffice. But eventually, more will be required, and that means either more nuclear plants, which seem highly unlikely in the United States, more coal and gas-fired plants, or solar generation.

In the long run, though, most experts predict that this whole issue will be resolved by the use of a far more promising energy source: hydrogen. In fact, it could be the ultimate clean fuel.

Hydrogen is the space-age fuel par excellence. The space shuttle uses hydrogen fuel cells to provide on-board electricity and drinking water. Yet one of the leading firms working on hydrogen-powered cars developed its technology not hundreds of miles above the earth, but below it: specifically, underwater.

Energy Partners, based in West Palm Beach, Fla., was founded by John H. Perry Jr., a former newspaper and cable television owner who introduced computerized typesetting into the newsroom. In the 60's, Perry began producing small manned submarines for the offshore oil industry, eventually cornering 90 percent of the market. He also build the hydrogen fuel-cell-powered Hydrolab, in which astronauts trained underwater for the weightlessness of space, and began to experiment with fuel cells in submarines.

Now 74 years old and looking more like a retired naval captain than a captain of industry, Perry is high on hydrogen, and curiously, considering that the source of a considerable part of his fortune is in the oil-drilling business, on the idea of clean energy. "The fuel cell," he says, "is the silicon chip of the hydrogen age."

Fuel cells were bulky and very expensive until the development some years ago of proton exchange membranes, of P.E.M.'s for short. A P.E.M. is a variety of Teflon that looks like a regular sheet of transparent plastic. When treated with platinum as a catalyst, it splits hydrogen and separates out its electrons to form electricity. A series of P.E.M.'s stacked one on top of another like layers of meat in a sandwich produces a fuel cell that is light, small and potentially cheap enough to use in a car.

Hydrogen can be burned in an internal-combustion engine—BMW, Mercedes Benz and Mazda all have prototype internal-combustion cars working on hydrogen fuel—but when used instead to produce electricity in a fuel cell, it will take that same car twice as far. A fuel cell in an electric car as aerodynamic as the Impact could increase its range to about 400 miles, and reduce its recharge time to two or three minutes.

Energy Partners plans to build a "proof of concept" car, rather than a production prototype, running on two hydrogen fuel cells. With it, Perry hopes to demonstrate that such cars can be ready for the mass market by the end of the decade, rather than 20 years from now, as most experts predict.

Though the car will use gaseous hydrogen as its fuel for now, a better and safer option for the future would be to store the hydrogen in an on-board tank containing a granular metal alloy that holds hydrogen gas in nonvolatile form, releasing it to the fuel cell as required.

One of the many advantages of hydrogen as an energy carrier is fuel flexibility: hydrogen can be made from just about anything. It could be reformed either aboard the car or at the service station from methanol, ethanol or natural gas. It could even be produced by using solar power to electrolyze water.

It seems the perfect fantasy: a car running, basically, on sun and water. But outside Munich, Germany, an experimental power plant is already producing hydrogen from solar power and water. Solar technology may be nowhere near the stage where it could power a family car directly, but its potential to power the car indirectly, by producing hydrogen, has now been established.

The technology for a new era in cars already exists. The problem now is building a market large enough to justify the large production runs that will make electric cars more economical. Some of the options include regulation, as is being done right now, and incentives, like higher gas taxes or tax breaks for buyers of electric cars.

"Economics underlies this whole issue," MacCready says. "Cars are not airplanes. You have to make them affordable. The challenge is how to get some of the efficiency of the culture of aviation into the mass-market car culture, which is all the trickier when gasoline is cheaper than bottled water.

"If some fearless politician with enough charisma to carry it off could introduce a slowly rising tax on gasoline to, say, $4 a gallon by the end of the decade, the national debt would be pretty much taken care of, the economy would be revitalized, everyone's health would be better, and we'd be free of independence on foreign oil," he says. "But it's not going to happen."

With a clear Federal policy still missing, the coming decade will be one of rapid development and high risk for auto makers. State regulations have set the pace. Now the question is whether consumers are ready to make the leap. If they are, it seems certain that within the next 10 years, cars will finally emerge from the century-old technology of gasoline and begin to catch up with the level of technology we use in the rest of our lives. Within 20 years, they may even catch up with the space age.•

THE CENTENNIAL OF THE BIRTH OF ABRAHAM EPSTEIN

• Mr. MOYNIHAN. Mr. President, I rise today to mark the centennial on April 20 of the birth of Abraham Epstein, a

social reformer and scholar highly influential in the establshment of Social Security. With his death a half century ago at the age 50, the Nation lost an important advocate for the elderly and the poor.

Abraham Epstein was born in Russia in 1892, and emigrated to the United States in 1910 at the age of 17. Seven years later he became a naturalized citizen. After receiving his degree at the University of Pittsburgh, he served from 1918 until 1927 as research director of the Pennsylvania Commission on Old Age Pensions. He could count as among his accomplishments preparing the first bill on old age pensions, which was introduced in the Pennsylvania Legislature in 1921.

In 1927 he left to organize and head the American Association for Old Age Security, late the American Association for Social Security [AASS]. He became a leading advocate for a national old age pension. One historian has argued that more than any other advocate, Mr. Epstein was responsible for keeping social insurance, and in particular old age pensions, on the national agenda as the Great Depression deepened. Over the next 15 years he lectured at New York University and Brooklyn College, and served as a consulting economist for the Social Security Board.

Mr. Epstein also pushed for reforms in unemployment insurance and advocated national health insurance. Many of the gaps he fought to close in social insurance we still grapple with today. Mr. President, Mr. Epstein was a tireless social reformer of type too seldom seen. His vision lives on in Social Security, the largest and single most effective social program in our history.●

NATIONAL PRODUCTIVITY AND INTERNATIONAL COMPETITIVENESS

● Mr. RIEGLE. Mr. President, last night, the Senate accepted my sense of the Senate amendment which states that we must as a Nation commit to increasing our national productivity and international competitiveness.

OUR ECONOMIC PROBLEMS

It is finally becoming clear to all that we have serious structural economic problems in America—problems that have been building over a period of many years. This recession is different from past downturns. We are faced with the long-term decline of important industries. Living standards are stagnating—incomes for American workers have risen only because of longer working hours. We are seeing rising unemployment that is not cyclical but structural—jobs that will never be coming back. For example, in my home State of Michigan General Motors has announced that it is permanently laying off more than 9,000 workers. We see a deteriorating sense of economic security, both individually and as a Nation. We see the plight of the homeless and others who have not shared in the illusionary growth of the 1980's We have seen rising inequity in incomes over the past decade. We also see the fraying of the social fabric which has accompanied all of these problems—what I have called the clockworth orange society.

Not all of these problems are the result of the Bush recession. Most have their beginnings decades ago. Yet, this recession, which has not been short and shallow as promised by the Bush administration, has heightened all of our long-term problems and given them new urgency.

LONG-TERM GROWTH STRATEGY

The only way to deal with these structural economic problems is to craft a long-term strategy that promotes investment-led growth. Over the long-term our economy will grow to the extent that we actively spur innovation and productivity. We must return our Nation to the path of long-term sustainable growth where investment in human resources, physical infrastructure, technology, and productive capacity leads to higher value added and higher income and national wealth; higher incomes and national wealth must then be plowed back into investment.

A long-term strategy requires a number of elements. We must have sound macroeconomic policies that stimulate demand and promote price stability. We must have a capital formation policy that promotes savings and investment, without lowering our standard of living. We need policies to channel public and private investment into new products, services, processes, and markets and into the factors which promote innovation and productivity, including human resources, physical infrastructure, and technology development.

We must also have a strong trade policy and other policies that affect how our domestic market is organized to insure that American products and services can be sold to customers, both at home and abroad, on a competitive basis. This is crucial so that American businesses and workers can reap the benefits of their investments in productivity and innovation.

A long-term strategy also means paying close attention to productivity and innovation in our strategic industries. A general growth strategy is not enough. Without attention to specific industries, the overall economy could grow but the specific goals of high value added, high standard of living, and economic and national security may not be met.

These principles expressed in this amendment are not new or radical ideas. Robert Kuttner, in a recent article in the Washington Post, quotes Fred Bergsten, Chairman of the bipartisan Competitiveness Policy Council as saying "there is a new consensus on this. Macroeconomic factors still matter, but structural differences and sectoral policies matter too." Kuttner points out that more and more economists are calling for increased investments as means of solving our long term economic problems. I will ask that this article be included in the RECORD and the conclusion of my remarks.

The administration has a growth strategy for every nation but our own. If you look at the President's so-called economic package, it is clear that it's not a strategy for growth. It simply relies on the hope that economic growth will pick up on its own. It is do nothing and cross our fingers strategy. According to the administration's own estimates, the President's package will create 400,000 new jobs by 1997 over the business-as-usual forecast. Just 400,000 jobs in 5 years. More than 400,000 Americans are filing for unemployment insurance every week right now.

The 1992 economic report of the Joint Economic Committee released last week graphically illustrates that problem. The administration's projected growth rate for GDP will result in a cumulative loss of over $1 trillion over 10 years, when compared to a constant 2.1 percent growth rate.

These are the trends we must overcome—both to secure our economic future and to get the budget deficit under control. Increasing economic growth is the only way out of our budget trap.

COMMUNITY AND URBAN REVITALIZATION

Mr. President, earlier this year, the distinguished majority leader, Senator MITCHELL, formed a task force on Community and Urban Revitalization and asked me to chair that group. Our goals are to increase the lines of communication between local political and civic leaders and the Senate and to refocus congressional attention on the challenges facing our communities.

The task force met in January with members of our advisory committee—some two dozen of our most distinguished mayors, Governors, labor leaders, and business people. They told us that their No. 1 priority for local communities was to begin reinvesting in our domestic economy. Significant investment in these key areas would pump dollars into State and local economies, putting Americans back to work.

The task force has been working to make such an investment program a reality. We unanimously endorsed a set of five principles to guide a recovery plan, including directing the peace dividend to offset the cost of an economic recovery investment package. That package would create and retain jobs, build infrastructure and human resources, and address economic readjustments caused by the decline of major industries and anticipated reductions in defense spending.

Despite the best efforts of the Senators on the task force, including the distinguished chairman of the Budget Committee, the budget resolution we are considering today does not lay the groundwork for the shift to domestic investment that this country so desperately needs.

Mr. President, I am grateful to the chairman of the committee for his assistance in adopting this amendment which puts the Senate on record in favor of a program like the one recommended by the task force—a program to reinvest in our communities here at home. We must make a commitment to strengthen our national economic security to help the people of this country.

I ask that the text of the amendment be printed in the RECORD following my remarks, along with the article by Robert Kuttner.

The material follows:

AMENDMENT NO. 1773

At the end of the resolution, add the following new section:

SEC. . SENSE OF THE SENATE REGARDING INCREASING PRODUCTIVITY.

(a) FINDING.—The Senate finds that—

(1) failure to meet the challenge of international economic competitiveness would seriously jeopardize our national security, standard of living, and quality of life in the coming decades; and

(2) increased productivity is the key to meeting the challenge and regaining the competitive edge the United States economy enjoyed in the past.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that funds should be allocated to allow this Nation to commit to an increase in productivity and international competitiveness through a program of long-term strategic investment in—

(1) the development of its human resources;

(2) the physical infrastructure that supports economic activity;

(3) the development and commercialization of technology; and

(4) productive plants and equipment.

MORE IMPORTANT THAN THE DEFICIT

(By Robert Kuttner)

The federal deficit has all but vanished from political discourse. Apparently, politicians of both parties, with their usual reluctance to make hard choices, have tacitly agreed to bury the issue. Doesn't the deficit matter anymore?

Perhaps it doesn't. The absence of the deficit from public debate reflects not political opportunism, but an abrupt shift in thinking among mainstream economists. For once, there is a convergence of what is politically shrewd and what's economically sensible.

It's not that the deficit doesn't matter. It's rather that other things matter more—and that attempting to cure the recession by raising taxes, cutting spending and tightening everyone's belt would only make things worse.

Consider these leading indicators:

A bipartisan commission on American competitiveness, mandated by the 1988 Trade Act, recently issued its first report. It called for improvements in education, training, technology policy, industrial policy and a variety of other institutional factors that affect America's ability to match nations like Germany and Japan. Budget balance was not mentioned.

The significance was less what the report said than who said it. The panel's chairman and principal architect was Fred Bergsten, head of the influential Institute for International Economics. For most of his career, Bergsten has assessed competitiveness by emphasizing macroeconomic factors—the size of the deficit, the level of U.S. private savings, the exchange rate of the dollar against other currencies.

"There's a new consensus on this," says Bergsten. "Macroeconomic factors still matter, but structural differences and sectoral policies matter too. The center of gravity on this debate has moved faster and further than on any other issue I've ever seen."

Other leading marcroeconomists, who used to disdain such factors as education, training or technology policy, are now placing them at the center of their view of what ails the economy. Lawrence Summers, chief economist of the World Bank, in a recent speech to the Society for the Advancement of Socioeconomics, argued that the restoration of healthy growth rates and long-term productivity would require an overhaul of our system of education, worker training, health insurance, the social pathologies of inner cities and the recent damage done by the excesses of deregulation. Just five years ago, Summers wrote that a 10 percent decline in the exchange rate value of the dollar would do more in the short run to improve American competitiveness and trade balance than measures to improve productivity.

Last week, 60 prominent economists, organized by Yale's James Tobin and MIT's Robert Solow, released an open letter to Congress, the president and the Federal Reserve Arguing that economic recovery and higher growth productivity could only be achieved by increasing the rate of investment; "in people, in infrastructure, in technology and in machinery."

The group called for further interest-rate cuts by the Federal Reserve, as well as tax credits to stimulate business investment and a $50 billion a year program of federal aid to state and local government for infrastructure spending. "Since the economy has idle resources of labor and capital available * * * and the threat of inflation is minimal, it is appropriate to let these expenditures add to the deficit financed by borrowing."

Research by Fred Block of the University of California at Davis and Robert Heilbroner of New York's New School for Social Research casts significant doubt on the claim that America suffers mainly from low private savings. Block and Heilbroner point to the immense increase in capital gains income dring the 1980s, which is not counted in the Commerce Department's Official measure of savings.

Wealthy people generate much of society's savings, because working people can't afford to save very much of their paychecks. When the windfall increases to investors are added to the conventional measures of private savings, the household savings rate actually rose during the 1980s.

What all of this suggests is a fundamentally different view of what afflicts the economy. America is growing slowly because the way that we organize our institutions of economic life—our schools, banks, public investments and our relations between government, industry and labor—is inferior to the comparable institutions of competing economies.

Lowering the deficit or increasing private savings won't help much, until our institutions are organized to invest those savings more productively. It is productive investment that drives economic growth, not savings.

The accumulated public debt is a real millstone on the economy—but the debt will be reduced relative to gross national product only when higher growth is restored. And with the economy stuck in a rut of slow growth, seeking a cure via deficit reduction would only make things worse.

Given the conventional view of the economic problem in recent years, these shifts in reputable thinking are nothing short of revolutionary.●

FAIR PRICING IN THE PETROLEUM INDUSTRY

● Mr. SIMON. Mr. President, the energy needs of this Nation and the environmental impact of meeting those requirements have been the focus of much commendable action by my colleagues and the committees on which they serve here in the Senate. The same may be said of our counterparts in the other legislative body.

The list of subjects in this area is extraordinary, both in its importance to all citizens and for its scope. It includes such diverse subjects as: Detailed measures for saving our environment from undergoing further decay, building our reserves of crude oil, increasing use of renewable fuels, and fashioning a broad energy policy.

Each of these topics deserves, even demands, our full attention. They are problems critical to the prosperity and the survival of America. Yet, the common element necessary to meeting this country's energy needs has received but little attention and no action.

The presence and maintenance of a distribution system for liquid fuels is the essential element without which there can be no effective energy policy. This distribution system has, historically, consisted largely of independent small business marketers who supply the major portion of gasoline and other liquid fuels to consumers and retailers who serve them. These small businesses have been virtually the sole source of fuel for small towns and rural areas and, to an increasing degree, medium-sized cities as well.

Today, their numbers are rapidly declining. In Illinois, since 1990, approximately 100 of these marketers have gone out of business. The Illinois Petroleum Marketers Association has lost one-sixth of its membership during this brief period. I understand that other States are undergoing a similar depletion in marketer ranks. When one of these small firms dies or merges, it does not return or get replaced. Rural areas and small communities are served mainly by independent wholesalers. Many farms and small towns in America are losing their access to petroleum fuel, and in many cases consumers are obliged to drive long distances of obtain gasoline. The energy future of even middle-sized commu-

nities—markets that are less attractive to major oil refiners than large urban areas—are severely threatened.

The current recession is partly responsible for this decline of independent marketers. But the decline far exceeds that of other sectors of the economy. New environmental regulations and changes in fuels produced by refiners—vital to protecting our environment—impose heavy new costs that marketers have to finance.

Refiner-operated retail units—particularly in urban areas—are actually increasing their share of the market while small business marketers continue to suffer sharp decline. Increased concentration of market power at the refiner level is a byproduct of current trends. Many industry observers have concluded that the country is being divided among the so-called "seven sisters," the large, dominant refiners. According to a 1991 report by the Consumer group Citizen Action:

> The major oil companies from 1981-91 have completed a program of restructuring and consolidation that has left only a handful of companies in control of the nation's major gasoline markets.

Since the end of Federal allocation regulation in 1981, nine refiners—over half of those previously marketing in Illinois—have withdrawn from the State. Other States have undergone similar reductions in available supply.

The primary underlying reason for small business fatalities is the unfair and even predatory pricing practices of the major petroleum refiners. In recent months, this has reached new levels of ferocity. We are now at a point where gasoline is sold to motorists for less than the price charged wholesalers. This is not an attack on pricing which is advantageous to consumers. If refiners can, and desire to, lower their prices at retail units, they should. But, they must give equal treatment to the prices they charge their small business wholesalers. It does not take an expert in mathematics to understand that if a retail customer, or even a retailer, can buy cheaper than can a wholesaler, then that wholesaler will soon go out of business. Pricing practices by all refiners must be nonpredatory and equitable.

Significantly, the torrent of complaints concerning this rapidly worsening situation is not limited to marketer ranks. In recent months medium-sized refiners such as Marathon, Ashland, and Total have formed their own association. According to the March 1992 issue of National Petroleum News, the newly formed Independent Refiner/Marketers Association, representing 10 independent petroleum companies, believes "there is a problem out there" and that legislative action is needed to address petroleum pricing practices.

I have introduced legislation, S. 2043, to remedy this situation. Other Senators and Members of the other Chamber have also introduced measures to address this problem. All of these bills seek the same objective: Establishing a level playing field within the marketing sector of the petroleum industry. These bills are similar in format but contain several significant differences.

This is a complex area. Antitrust considerations, marketing economics, the provisions of the Petroleum Marketing Practices Act and the interplay of myriad other factors present a formidable challenge to those of use seeking the correct prescription.

I do not claim that my bill is perfect or the only solution to this problem. Committee hearings and the full review and discussion by the Congress will no doubt improve these measures. Pride of authorship is less important than saving this industry and meeting our people's energy needs. It is crucial that the different sectors in marketer ranks unite in this mission. We must preserve this vital economic sector, without which there can be no effective energy policy. We must insure that marketers and refiners can obtain the resources to comply with new environmental measures. We must craft a measure that will insure equity for marketers and refiners alike. All affected sectors of the energy industry must work together and help Congress develop effective legislation.

Early action on this matter is urgent. It is my hope that the Antitrust Subcommittee of the Judiciary Committee, of which I am a member, can soon consider legislation on this subject, including my own. I believe we can get swift consensus and action on legislation in this area, provided that the different sectors of this industry are flexible and cooperative, and work with us in the Congress to craft a coherent solution to this problem.●

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

● Mr. SEYMOUR. Mr. President, I would like to commend Chairman JOHNSTON and Senator WALLOP for their leadership and efforts on passage of the Reclamation Projects Authorization and Adjustment Act of 1992.

Both the chairman and Senator WALLOP have been very accommodating in addressing my concerns regarding several provisions of this bill specific to my State of California.

This bill includes several titles which address California's pressing water needs. These include comprehensive water reclamation and reuse studies for southern California cities and counties. Further, it authorizes the Secretary of the Interior to participate with the city and county of Los Angeles and the city of San Jose in the design and construction of water reclamation reuse, and water quality programs and projects.

The bill also authorizes the Secretary to conduct research on available methods to control salinity in the Salton Sea. Additionally, I am delighted that we were able to authorize a permanent water contract for the San Joaquin National Veterans Cemetery.

Mr. President, I was pleased that the committee chose to adopt the S. 2016, the Central Valley Project Fish and Wildlife Act, I introduced November 21, 1991, into the Reclamation Projects Authorization and Adjustment Act of 1992. This bill directs the Secretary of the Interior to undertake specific activities to address fish and wildlife problems associated with California's central valley project. The bill also removes the Federal barrier which has historically prohibited water transfers from agricultural users to urban and industrial uses, and requires central valley project agricultural users to use water more efficiently.

Last year, the Senate Energy Subcommittee on Water and Power held four hearings on CVP legislation; in Los Angeles, Washington, DC, Sacramento and San Francisco. I attended all four. Approximately 75 witnesses testified during these proceedings, many followed up with written remarks to supplement their testimony.

I and my staff have met with virtually every interest in this debate; including representatives of environmental, agricultural, urban, fishery, conservation and power interests. We also met with representatives of the CVP and State water districts, the State of California, the U.S. Fish and Wildlife Service, the Department of the Interior, and the Department of Agriculture. My office has met with everyone who has requested a meeting on this issue.

In early March, Chairman JOHNSTON requested that several Senators meet in an effort to negotiate a compromise CVP bill. During the negotiations, it became apparent that resolving the central issues in CVP legislation was much more complicated and costly than anyone had initially imagined. Possibly the most difficult issue to resolve was the question of water for the environment. Everyone acknowledges during dry periods, fish and wildlife need firm water supplies that will ensure survival of the species. But how much water is required to ensure the survival of various species now threatened? Where will it come from? How much will it cost either to develop this new water, or to purchase it? And, who will pay for it?

As we painfully discovered, there are no simple solutions. During drought—and we're in our sixth year now—there is precious little water for anyone. Just look at the cutbacks that urban, industrial and agricultural users have endured for the past few years. How much water do we provide for fish and

wildlife needs during drought? In the absence of credible data, it is difficult and possibly irresponsible to make such a determination. When there is credible data, as in the case of wildlife refuges, we can identify ways to deliver the water. In regard to the needs of the fisheries, it is clear more water is needed during dry periods. But we should not delay adopting solutions to already identified fishery problems.

Unfortunately, various special interest groups have become fixated upon a single amount of water exclusively for fish and wildlife needs. They believe 1.5 million acre-feet of water for fish and wildlife is the minimum amount of additional water supplies necessary for fish and wildlife in the central valley. Frankly, their utter lack of willingness to find a reasonable balance is one of the major stumbling blocks to developing compromise CVP legislation that would address urban, agricultural and environmental water needs.

The effect of reallocating 1.5 million acre-feet away from urban and agricultural users solely to fish and wildlife would be disastrous to California. According to the California Department of Food and Agriculture, a reallocation of this water would cost the State roughly $6 billion in lost economic activity. It would also result in the loss of over 10,000 jobs—over $210 million in lost wages. CDFA also projects that it would result in the idling of over 1 million acres statewide—a loss of over $1.5 billion in gross farm receipts.

Another matter is how would this water be acquired each year? Should it be developed through new storage facilities, through the idling of cropland, or should it be purchased annually or permanently? Is it even possible to build all of the facilities required to develop 1.5 million acre-feet, or would it require a combination of new storage facilities and annual purchases? Finally, what would it cost to acquire that much water?

The Department of the Interior estimated that raising Clair Engle Dam with a pump-through storage to Shasta Dam, construction estimates only, not including annual operation and maintenance, would cost approximately $3 billion. If built, this facility would yield approximately 700,000 acre-feet annually. If you accept the approach that you need an additional 1.5 million acre-feet, in this instance, only half of the annual delivery to fish and wildlife has been developed, at a cost of $3 billion. And you would still need to obtain an additional 800,000 acre feet.

Another option we explored was to direct the Secretary of the Interior to buy 1.5 million acre-feet annually. This option was also financially unreasonable. Consider, the State of California's 1991 water bank. last year, the State of California purchased approximately 750,000 acre-feet at a cost of roughly $125 million. This was a one time purchase. The costs associated with purchasing 1.5 million acre-feet annually would easily exceed $250 million, regardless of whether the Secretary purchased water rights associated with poor drainage lands in the San Joaquin Valley, or bought storage rights from existing storage facilities.

Then there is the question of who will pay for this water for fish and wildlife. Initially, there was speculation that a transfer fee could be placed on water transferred from agricultural use to urban use. It became apparent, however, that any charge on water transfers would not generate sufficient funds, because once 1.5 million acre-feet was devoted exclusively to fish and wildlife, there would be no water left in the central valley project to transfer to other parched urban areas.

There was general agreement that the structural improvements for fish and wildlife such as those in S. 2016, based on rough estimates would cost approximately $238 million. Acquiring 1.5 million acre-feet annually for fish and wildlife on a permanent basis was estimated at $2 billion, using $1,300 an acre-foot as the assumed cost.

Alternatively, to acquire temporary water for fish and wildlife in culminative 150,000 acre-feet annual increments for 10 years based on $100 acre-feet was estimated to cost roughly $1 billion. Two things became clear as a result of this discovery. First, the costs were much higher than anticipated, and would cause serious economic consequences if imposed over a 10-year period. Second, the goal of achieving 1.5 million acre-feet of water dedicated solely for fish and wildlife was unachievable in 10 years in all but very wet years without the same economic dislocation.

Senators JOHNSTON, BRADLEY, WALLOP, BURNS, and myself then explored the option to stretch out the costs of these structural measures and water purchases by examining the use of bonding authority. In each instance, the numbers told the story. It appeared that increases in power charges might exceed 20 percent, agricultural rate increases of 100 percent, and municipal and industrial rate increases of 200 to 300 percent. We even reviewed the option to apply a charge to prior rights and exchange rights water users. There was also a recognition among the negotiators that agricultural and urban water contracts can not simply be unilaterally amended to include a rate increase. Ultimately, none of the options we explored were acceptable to me or the constituents I represent. It's easy to promise all things to all people, but the reality is that reallocating 1.5 million acre-feet of water exclusively for fish and wildlife simply would not work. And that reality became clear to all members of the committee, before it reported S. 2016 as part of the measure now before us.

Let me emphasize that the decision to support my bill does not abandon California's fish and wildife, or any particular group such as California's commercial and sport fishermen. I believe that the provisions of S. 2016 will make it possible to begin the restoration of California's precious fish and widlife habitat.

Nonetheless, during dry years there must be minimum amounts of water available for fish and wildlife needs. I strongly support providing a minimum amount of water for fisheries during times of drought. In fact, S. 2016 provides for establishing increased flows on both the American and Sacramento rivers.

S. 2016 would stabilize and augment river flows to restore and enhance the natural production of anadromous fish. The economic importance of salmon and steelhead runs, striped bass, and other fisheries are imperative to California's sport and commercial fishing industries.

In March of last year, I introduced S. 728, the Upper Sacramento River Fishery Resources Restoration Act, which incorporated the recommendations of the Upper Sacramento River Advisory Council. Established by an act of the California Legislature, the council devoted a considerable amount of time through open public hearings and meetings to develop a management plan to restore Sacramento river fish habitat. Many of the requirements contained in that bill, including mandated instream flow requirements, have been embodied in this bill. S. 2016 directs the Secretary of the Interior to establish increased flows in the rivers and streams below project dams. Once established, these flows will become a firm requirement of the central valley project. S. 2016 requires the mitigation of fishery losses resulting from the Tracy and Contra Costa pumping plants; it provides authorization for the construction of a temperature control device at Shasta dam for cooler water releases for spawning and outmigrating salmon; it authorizes the rehabilitation and expansion of the Coleman National Fish Hatchery by 1995; it requires the Secretary to enter into an agreement with the State of California to eliminate losses of salmon and steelhead trout caused by flow fluctuations at Keswick, Nimbus, and Lewiston regulating dams; it authorizes the construction of a new fish hatchery at the Tehama Colusa Fish Facility, as well as authorization for the construction of a salmon and steelhead trout hatchery on the Yuba River; it authorizes the Secretary to minimize fish passage problems for salmon at the Red Bluff diversion dam; it directs the Secretary to provide flows to allow sufficient spawning and out migration conditions for salmon and steelhead trout from Whiskeytown dam. Finally, the Secretary is author-

ized to construct a barrier at the head of Old River in the Sacramento-San Joaquin delta, by December 31, 1995, to partially mitigate the impacts of the CVP on the survival of young outmigrating salmon.

In addition, my bill for the immediate delivery of 380,000 acre-feet of firm water supplies to the 15 national wildlife refugees and wildlife management areas in the central valley. The wetlands and associated habitat are important to several threatened and endangered species such as the American peregrine falcon, bald eagle, Aleutian Canada goose, and San Joaquin kit fox, and support a winter population of nearly 6 million waterfowl. Sixty percent of the ducks, geese, swans, and millions of shore birds of the Pacific flyway crowd the existing acres. By the year 2000, the directs the Secretary of the Interior to increase the water supply to over 525,000 acre-feet annually. This has been identified by the Secretary of the Interior as the amount needed to fully manage all hands within the existing refuge boundaries.

While I've focused upon the fish and wildlife components of my bill, it is imperative that any comprehensive water bill for California address the growing water needs of our cities. That's why S. 2016 includes a water transfer provision that's the product of negotiations by the metropolitan water district, representing over 16 million water users, and CVP water users. This historic agreement would allow, for the first time, central valley water users to transfer water to cities such as Los Angeles, San Diego and other urban areas. This provision provides for the protection of both ground water supplies and safeguards against third party impacts. Given California's explosive growth, voluntary water transfers are an essential component in any successful long term water policy. This provision will help ensure California's cities access to a safe water supply in years to come. I will continue to insist upon the water transfer language as agreed upon in California, in any final CVP legislation. This week, the State of California has announced a comprehensive water plan, and I'm pleased to say Governor Wilson's plan includes water transfer guidelines identical to those in my bill.

I would also note for the record some have stated that my bill will not resolve the dredging in the San Francisco and Oakland ports. I am, however, committed to keeping these ports open and vital.

For almost a year now, I have worked aggressively to ensure that bay area ports remain open to large traffic. When I first became involved in this issue, it appeared that most maintenance dredging would be halted at the Oakland and San Francisco ports. The holdup seemed to stem from a bureaucratic web that involved the Army Corps, the Environmental Protection Agency, and the National Marine Fisheries Service.

At that time, each of these agencies was working diligently, but independent of the other agencies. The result was stalemate; no solution, no permits, no dredging. And sadly, the potential loss of up to a 100,000 jobs and a $4.5 billion for the bay area.

I found it unconscionable that a multibillion-dollar industry in California would be at risk because Federal bureaucracies could not seem to communicate with one another. I vowed not to let that happen. Since last July, we have been meeting regularly with all the pertinent Federal agencies. As a result, these agencies are placing greater emphasis on keeping the ports open and vital.

This new emphasis has yielded results. In the port of San Francisco, the dredging of pier 27, pier 29, pier 94, pier 96, pier 80, approach pier 80, islais Creek, and the Berkeley Marina has been permitted. The Port of Oakland, the Chevron oil transfer facility, and the Guadalupe Slough have also gotten permission to go forward with needed maintenance dredging projects.

Since I introduced my bill last year, it has become apparent that the State of California would like to take over the CVP. Although there are numerous issues to resolve before this could occur, I strongly support State ownership of the CVP. No other reclamation project is as integrated to a State's water project as the CVP is to California's State water project. I intend to do everything I can to assist California in this regard. In fact, Senators JOHNSON and BRADLEY indicated that they would not object to California's decision to take over the CVP.

I will not support legislation that benefits one group at the expense of another, or does not fairly address the needs of legitimate California interests. Recently, various special interests have attempted to characterize California's water struggle as one of farmers versus fishermen. Let me say, there is no place for this sort of wedge-forming politics in this issue. This is not a struggle between farmers and fishermen. The Endangered Species Act will not go away simply because we pass CVP legislation. Nor for that matter will the bay-delta proceedings. Ultimately, there is enough water for farmers, fishermen and for cities. The challenge is for all Californians to work together.

The objective is balance. California is growing at a rate of 700,000 people a year, and the demands upon our natural resources will only continue to increase as our population grows. If California will ever clear this hurdle which threatens our economy and the quality of life for our citizens, we must balance the often competing needs of our cities and rural communities with our limited natural resources. I do not believe that commerce and conservation are incompatible. There will be sacrifice, difficult decisions lie ahead of us; but working together, we will resolve the water dilemma which has polarized our State for so long.

I'm committed to the resolution of fish and wildlife problems in California. I am equally committed to the resolution of the water shortage problems facing urban areas. For any legislation to achieve those objectives, it must reflect the concerns of those immediately affected. My bill is a product of California, representing conservation, agricultural and urban interests.

Critics of my bill have indicated that passage of S. 2016 would represent a severe setback for the State of California. Despite these shrill predictions of doom and gloom for the State of California, the Senate chose to support my bill. The Senate has done so, Mr. President, because my bill balances the needs of urban, agricultural and environmental interests. The approach by special interest groups does not truly reflect the broad interests or legitimate needs of my State, and it will only result in endless litigation at the expense of California's environment and economy.•

S. 2533. THE EARTHQUAKE AND VOLCANIC ERUPTION HAZARD REDUCTION ACT

• Mr. MURKOWSKI. Mr. President I rise in support of the bill, the Earthquake and Volcanic Eruption Hazard Reduction Act, introduced on April 7, 1992 by my good friend, the senior senator from Hawaii, Senator INOUYE.

Mr. President, this bill has two goals. The first is to encourage the construction of buildings best able to resist damage from earthquakes or volcanic eruption. The second is to insure the availability of reasonably priced earthquake and volcanic eruption insurance for owners of residential property.

RISKS OF EARTHQUAKE OR VOLCANIC ERUPTION

Mr. President, it probably comes as no surprise to anyone that a Senator from Alaska is behind legislation designed to alleviate the potentially catastrophic effects of both earthquakes and volcanic eruptions. My State has certainly suffered from both types of events. But this bill is not relevant only for Alaska, it is, in fact, crucial national legislation. The Federal Emergency Management Administration estimates that 39 States are vulnerable to earthquake damage and, in fact, the worst earthquake in recorded history in our country occurred in the mid-west along the new Madrid fault.

Further, in many ways it makes no difference where the next major earthquake strikes. Seismologists have predicted that we can expect an earthquake up to 30 times more powerful than the 1989 San Francisco Earth-

quake somewhere in the United States within the next 35 years. Government figures estimate that such an earthquake could kill thousands of people and cost as much as $100 billion. Wherever that earthquake happens, be it Los Angeles, Anchorage or Kansas City, such devastation would not only bring tragic human costs but would also destroy the savings of the vast majority of homeowners who presently have no earthquake insurance. Moreover, such a catastrophe could overload the ability of insurance companies to compensate for the damage, driving them out of business and forcing an expensive government takeover of loss compensation.

THE BILL

That is where the bill comes in. We in Congress are often accused of waiting until after the horse is gone to shut the gate; of waiting until the disaster has happened and then throwing money at the ruins. This bill is different. This bill attacks the risk of catastrophic earthquake or volcanic eruption disaster when it should be attacked, before the disaster happens, before a single life is lost or a single building destroyed.

MITIGATION

Mr. President, as I mentioned in the beginning of my statement this bill has two goals. The first of these is the establishment of Federal criteria ranging from land use to building codes which will apply to the 39 or so earthquake and volcanic eruption prone States. I must say at this point that I am not one who ordinarily supports the imposition on States of new Federal standards. I generally am concerned both about why the Federal Government thinks it can do a better job than the States as well as how the States can possibly pay for yet another series of Federal standards or regulations. In my opinion, however, this bill addresses both of those concerns.

As to why Federal standards are necessary. Simply put, this is one area where the vast scientific and mitigation expertise resources of the Federal Government outstrip those of any State. As for how can the State afford to design and implement its own new standards, each vulnerable State will have 2 years to meet the Federal standards but will receive money to pay for their work from a pool of money funded by insurance premiums. Therefore, this is not a program in which the Federal Government will establish new standards and leave the funding to the States; rather, the funding will be provided by insurance premiums. The success of the bill in addressing State concerns is further indicated by the fact that nine State legislatures have already backed this legislation. A resolution to support the principles in this bill is currently pending in the Alaska State Legislature.

INSURANCE

The second goal of this bill is to provide for the availability of comprehensive earthquake and volcanic eruption insurance in this country. The fact is that the present insurance program for earthquake and volcanic eruption damage is simply not working. The problem is simple; both of the above events are unpredictable in a way other insurable events are not and have potentially huge costs in the event of a catastrophic incident. Because of that, insurance can only be offered at high rates and with high deductibles, the result of that being that even in a high earthquake risk State such as California only 25 percent of homeowners have quake insurance.

This bill will make earthquake and volcanic eruption insurance available through two programs to be managed by the Federal Emergency Management Administration. The first of these, the primary insurance program, would cover mostly residential homeowners who were in compliance with the new mitigation standards. Those homeowners in vulnerable States with mortgages backed or insured by the Federal Government would be required to purchase earthquake and volcanic eruption insurance. Such a requirement is similar to those requirements already behind three-quarters of the insurance presently sold in this country. In effect, by spreading the risk among all those now living in earthquake or volcanic eruption prone areas, rates for earthquake and volcanic eruption insurance will fall by at least 60 percent. Most importantly, this bill will make such insurance available to far more than the fortunate minority who can now afford it.

The second program, the excess reinsurance program, will be a program funded by the insurance companies. All insurance companies participating in the primary program will pay premiums to a federally managed fund which will reimburse them in the event of a catastrophic earthquake or volcanic eruption. If the fund was insufficient at the time of the catastrophic event to fully reimburse the insurance companies, the Federal Government would cover them but the insurance companies would have to pay that money back with interest. This fund will ensure the likelihood that there will be enough money available to cover the damage caused even by a catastrophic event.

I might add at this point my thanks to Senator INOUYE for his help in including language in the bill to include the provision of insurance for damage caused by tsunamis. I remember only too well the tsunami damage caused in Alaska by the 1964 Good Friday earthquake, and I felt it was essential that this bill specifically include language to cover tsunamis.

CONCLUSION

Mr. President, this bill protects everyone. The individual homeowner gains both a better constructed home as well as the ability to purchase affordable insurance. The vulnerable States gain the ability to fashion the most effective mitigation steps possible with no governmental expense. The country gains the fashioning of an insurance company funded reinsurance program which will greatly broaden the availability of disaster insurance to all Americans. This is a good bill, and I look forward to working together with my friend from Hawaii to ensure that it becomes law.●

WELCOME, HUNTER THOMAS HAUPTMAN

● Mr. WARNER. Mr. President, today, as the Senate was debating fiscal policy which will affect future generations of children, my good friend Senator CONRAD BURNS of Montana and I left the floor of the U.S. Senate to call the Hauptman family of Billings, MT. Tom and Kim have just become the proud parents of their first son, Hunter Thomas.

We all join in welcoming to the world their new citizen and pledge to preserve our great Nation for his generation.

In return, Hunter, we want you to become an erudite person like your mother and a hunter-fisherman like you dad. they are special parents, which marks the first good fortune you have had for your start in life.●

TRIBUTE TO TYNAN KARR

● Mr. WIRTH. Mr. President, a very special lady passed away on Friday of last week. Mrs. Regina Karr of Denver, CO, was by everyone who knew her a unique and special lady. Mrs. Karr's contribution to her community and to their country should not and will not go unrecognized.

Mrs. Karr was one of the very last stalwart women of her generation. She carried forward a solid family-oriented tradition established by her parents, Tom and Anna Tynan. She proudly raised seven wonderful children. These children have gone on to become teachers, counselors, mothers and fathers; societies contributors one and all. Anyone who knew Mrs. Karr, knew what she stood for and what she would not tolerate. In the simplest of terms, Mrs. Karr lived what she taught—family and community were her main concerns. I am sure that we all would agree that these are the core values that built this country. I would only add that Mrs. Karr was the personification of propriety.

Eulogies as we all know are for the living; the men, women, children, and grandchildren who will carry on in the wake of this sadness. We do, however,

owe a debt of gratitude to this extraordinary women who would routinely triumph over obstacles, large and small. Mrs. Karr, would take on problems with a simple flare. First she would care deeply about the person or the situation. Then she would say there is nothing to worry about "dear," everything was going to be alright. These words of comfort would inevitably make it so.

Mrs. Karr was the keeper of a proud family flame, we can all be secure in the knowledge that she successfully passed the torch to all who knew her.•

A TIME-HONORED TRADITION IN NEW YORK STATE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to a tradition that bespeaks the family values that our country was founded on, the Baker family reunion. This year marks the 128th anniversary of the Baker family reunion. This monumental event is deserving of kudos and accolades and I wish to be among those who offer sincere and heartfelt congratulations for this amazing feat.

As history progressed, families tended to disburse, creating hardships for those seeking to get together. Yet, over all these years of separation and change, the Baker family has managed to reunite each year, excepting one, since 1865.

The Baker family can trace its roots back to 1630, when three Baker brothers emigrated to Massachusetts from England to escape religious persecution. The family reunions were started by the 16 sons of James and Ruth Post Baker in the Stillwater-Mechanicville area of New York. Each August descendants of each of the 16 brothers gather in Stillwater to share a meal and stories about the family. They believe this to be the oldest continuous reunion in New York if not America.

I salute the Baker family and commend them for overcoming hardships and persevering in coming together each year to celebrate family values.•

RELATIONS WITH VIETNAM

• Mr. MURKOWSKI. Mr. President, I rise to take note of a very important development in our relations with Vietnam. Last week Assistant Secretary of State, Richard Solomon, led a delegation to Hanoi to try to break the recent stalemate in United States-Vietnamese relations. The results were very hopeful—particularly in the thorny area of MIA–POW's. The United States has long sought a full accounting of our missing servicemen from the Vietnam war. While some progress has been made and a number of remains returned, there are still several outstanding issues that have frustrated a final resolution of this question. Consequently, the United States embargo on trade, investment and aid to Vietnam remains in place—and United States business remains frozen out of a potentially important market.

However, the Solomon mission may well have achieved a breakthrough. In each of the unresolved areas of dispute, Hanoi accepted the United States position. First, in response to live sighting reports, Hanoi agreed to a procedure for immediate joint visits to the site in question without any bureaucratic delays or obstacles. Second, relevant Vietnamese archives and files will be opened to United States investigators. Third, United States and Vietnamese technical experts will review each case where the United States has reason to believe additional remains may have been preserved and stored. Fourth, agreement has been reached on procedures for conducting trilateral field investigations with Vietnam, Laos, and Cambodia into crash sites in their border areas. Together, these procedures should permit the United States working with Vietnam to resolve the remaining 135 discrepancy cases.

For its part, the United States pledged an additional $3 million in humanitarian assistance. Together with previous bilateral and unilateral contributions.

Mr. President, we should also take note of the fact that Japan played an important role in the success of the Solomon mission. The Japanese Government is under heavy pressure from its business community to resume bilateral assistance to Vietnam. Such a move would severely undercut United States policy toward Vietnam. Instead, Foreign Minister Watanabe wrote a remarkable letter to his Vietnamese counterpart urging Vietnam in emphatic terms to accommodate the United States on the MIA–POW issue. That letter arrived in Hanoi shortly before Mr. Solomon and clearly had a beneficial impact on Vietnam's position. Tokyo is to be commended for its constructive intervention.

In conclusion, we have agreement on a process—which combined with the presence of United States field offices in Vietnam—offers a real prospect of finally laying to rest this most painful episode in American history. Mr. Solomon and his colleagues are to be commended on their achievement. The task now is to implement these agreements as energetically and rapidly as possible so United States-Vietnamese relations can be normalized to the benefit of all concerned.•

A TRAIN WRECK COMING

• Mr. GORTON. Mr. President, a disaster looming on the horizon is often described as a train wreck coming. The people of the Northwest have recently witnessed such a disaster, though this disaster more closely resembled a shipwreck on a drained reservoir.

Last week, a 4-week drawdown of two reservoirs on the Snake River in southeast Washington was completed. These drawdowns were designed to collect information that could be used to develop plans for protecting the Redfish Lake sockeye salmon. This is a fish the State of Idaho actively attempted to eradicate 20 years ago in favor of trout, which, in its view then, was a better game fish.

I have several concerns with this test, specifically, and drawdowns, generally.

The effectiveness of drawdowns in causing salmon recovery is questionable, at best. There is as much biology indicating that drawdowns will hinder the recovery of the Redfish Lake sockeye salmon as there is contending that they will help. The fact that the National Marine Fisheries Service, fearing that fish could be killed, limited the test to 4 weeks when no fish were present in the river illustrates graphically the uncertain nature of the biology.

We should not employ an alternative designed solely for political expedience. Drawdowns should be implemented only if they are determined to be biologically sound and economically viable measures of species recovery.

Last month's test showed that drawdowns certainly do have biological effects, thought at this stage they appear to be mostly negative. Resident fish and game that inhabit the reservoirs behind the Lower Granite and Little Goose dams were severely impacted during the month of March. Carp, bass, catfish, and freshwater mussels were left high and dry. Fish ladders used by adult fish traveling upstream were rendered inoperable as water levels dropped.

An analysis of the drawdown will not be completed until the end of the month. Preliminary results of tests conducted during the drawdown, however, showed that the levels of dissolved gas in the water increased to potentially fatal levels for fish. Known as supersaturation, this condition has an effect similar to the bends in humans. If the preliminary data is correct, then a drawdown may be more harmful than helpful.

Though the biological benefits are unclear, the costs to the people of the Northwest are clearly evident.

The most obvious are the physical costs related to the test in March. Estimates of damage run as high as $10 million. I am attempting to secure funding to compensate those who were adversely impacted by the test. This test was conducted by a Federal agency and I believe the Federal Government should be responsible for collateral damages caused by the process.

Of course, those costs don't include opportunity costs. A recent news article reported on a barge company that estimated a loss of business nearing $1

million for the month. It is likely that repairs to marinas and ports will not occur until well into the summer or fall. As a result, more business will be lost.

Finally, the test itself cost the Government approximately $3 million in labor and equipment. On top of that are $2 to $3 million in lost power by not running water through the turbines that generate electricity.

These costs are very real and very tangible, but still do not account for all the negative impacts associated with drawdowns. In order to accommodate annual drawdowns on the eight dams that the Redfish Lake sockeye salmon must pass, modifications costing hundreds of millions of dollars per dam may be necessary. For the number of fish returning, at this cost each fish may well be worth more than its weight in gold.

Saving species is both an important and a worthwhile cause. As both a religious conviction and an appropriate public policy, I believe we should act as stewards of this Earth for the benefit of our grandchildren and their grandchildren.

Protecting species and the preservation of nature is worth a real price. They are worth the sacrifice of dollars and even some economic opportunities to the American people.

Where I disagree with this idea, and find fault primarily with the Endangered Species Act as currently drafted, is with the almost unlimited amount of human sacrifice it requires for the enhancement of even a single natural species, and the fact that it almost totally ignores the human environment. Drawdowns are a single example of the draconian measures required by the Endangered Species Act.

This year, I intend to give voice to people whose lives are devastated by the Endangered Species Act. I will work to find compensation for those affected by the drawdowns. And I will work to amend the Endangered Species Act so that human beings, their families, and communities, are given consideration at least equal to that given other species.•

S. 2484—THE NATIONAL TRIAD PROGRAM ACT

• Mr. KASTEN. Mr. President, I ask to place a copy of a letter of support for S. 2484, the National Triad Program Act, from the American Association of Retired Persons [AARP] in the RECORD.

On March 26, I introduced the National Triad Program Act and at that time I placed letters of support from the National Sheriffs' Association and the International Association of Chiefs of Police in the RECORD.

I am now extremely pleased to add this letter of support to the ones received by the sheriffs and chiefs associations.

These three groups represent the original members of the Triad, which was developed to address the rising problems of crime and victimization of our Nation's elderly.

The letter follows:

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, April 10, 1992.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: On behalf of the American Association of Retired Persons, I am writing to thank you for introducing S. 2484, the "Triad bill". This bill will encourage research, program development, and information dissemination to assist states and units of local government in their efforts to prevent crime, assist crime victims, and educate the public regarding crimes against the elderly.

AARP believes communities can greatly benefit from programs that bring together law enforcement authorities, consumer advocacy organizations, and ordinary citizens to identify and implement crime prevention strategies. The Association has worked in coalition with the National Sheriffs' Association and the International Association of Chiefs of Police for several years to accomplish just such aims. We are pleased that our "Triad" project has provided the inspiration for this legislation.

S. 2484 will authorize $2 million to fund up to twenty pilot programs to test promising strategies and models for preventing crime and providing services based on the concepts of the Triad model. If funded, these demonstration programs would be useful to law enforcement agencies and organizations representing the elderly around the country as constructive examples of how to deal with crimes against the elderly. In addition, the bill will authorize $1 million for a national training and technical assistance effort, $1 million for development of public service announcements, and $2 million for a national assessment of crimes against the elderly, and of the needs of law enforcement, health and social services organizations in preventing such crimes.

Again, AARP wishes to express its appreciation for your interest in supporting efforts to prevent and reduce crimes against the elderly through introduction of S. 2484.

Sincerely,

JOHN ROTHER,
Director, Legislation and Public Policy.•

A DECLARATION BY CHARLES E. STEIN

• Mr. BRADLEY. Mr. President, I will shortly ask that a declaration, written by Mr. Charles E. Stein, the chairman of the Education Committee of Sepharad '92, be printed into the RECORD at the conclusion of my remarks to commemorate the quincentenary of the edict of expulsion.

Tremendous progress has been achieved since the time of the edict. Yet, racism, anti-Semitism and other forms of hatred still plague our society. The edict of expulsion should serve as a constant reminder of the danger our society or any society faces if we allow ourselves to search for scapegoats for our problems.

We must be on our guard to counter intolerance in any form. Americans must understand that our strength comes from the fact that we are a multiracial, multireligious, and multiethnic society. Diversity expands our ability as a nation to meet the demands of the 21st century.

I now ask that the declaration be printed in the RECORD.

The declaration follows:

THE 500TH ANNIVERSARY EDICT OF EXPULSION
JUSTICE FOR THE SPANISH CONVERSOS

(By Education Committee of Sepharad '92 of Greater Middlesex County, NJ)

Today is the 500th anniversary of the signing of the Edict of Expulsion, banishing the Spanish Jews from Spain and its territories. The Edict was signed on March 31, 1492 at the magnificent Moorish palace of the Alhambra in Granada by Queen Isabella and King Ferdinand.

March 31, 1492, a day of infamous religious hatred, should be a date to be remembered and commemorated by all peoples, not just the descendants of the banished Spanish Jews, the Sefardim, living in the United States, Israel, Turkey and South America.

An entire people were ordered to convert to Christianity or be banished from the land where they had lived for twelve hundred years. The Expulsion culminated over one hundred years of active religious bigotry consisting of riots, pogroms, burnings of synagogues and homes, selling Jewish women and children as slaves to the Muslims and later the Inquisition itself.

In 1391 thousands of Jews were killed in riots throughout the cities of Spain and the killings did not stop until approximately one hundred and fifty thousand Jews forcibly accepted baptism. Many of these forcibly converted Jews secretly practiced their ancestral faith but outwardly were compelled to observe Christian Practices. The forcibly converted Jews were called "Marannos" or swine by the Christians and today most Jews and scholars refer to these New Christians as "Conversos".

Contrary to popular belief, it was the Conversos, the Jews forcibly converted to Christianity, who were the victims of the Spanish Inquisition, not the unconverted Jews who were later expelled from Spain in 1492. The Conversos were tried by the Inquisition as Catholic heretics who secretly: lit candles on the Jewish Sabbath, attended hidden synagogues, observed Jewish Festivals and Mosaic law. For this they and their deceased parents were tried by the Inquisition and many were tortured, their assets and homes were confiscated and thousands were burned alive at the stake with the bones of their deceased parents.

Fresh from their victory of reconquering all of Spain from the Moors in 1492, the announced purpose of the Spanish monarchs in their Edict of Expulsion was to punish the Jews of Spain for assisting the Conversos. By instructing the Conversos as to the Jewish calendar, festivals and rituals such as circumcision, the Church was allegedly endangered and damaged.

Isabella's dream, to be realized on July 31, 1492, the date when all Jews were to be converted or banished, was that Spain was to be One Nation—liberated from Islam—One People and One Religion, free of the descendants of Moses.

Ignored by Isabella and Ferdinand in their religious fervor were the immense contributions to Spain of Spanish Jews in the fields

of science, medicine, mapmaking, astronomy, mathematics, poetry and philosophy. Columbus and other Spanish admirals used maps, astronomical tables and navigation instruments prepared by Spanish Jews. With the banishment of many of its most creative minds and the ongoing racist persecution of the Conversos having the impure blood of Jews, Spain eventually became a decaying second rate power notwithstanding its conquests and the immense wealth of the New World.

Today, five hundred years later, democratic Spain has made great strides under the leadership of King Juan Carlos as an industrial nation and as a prominent member of the European Community. Celebrating the Quincentary of Columbus' voyage to the New World, Spain has planned many festivities this summer including the opening of its World's Fair in Seville and the summer Olympics in Barcelona.

On April 20th, 1992, King Juan Carlos, amidst great fanfare and pageantry, will officially open the World's Fair in Seville where the first bloody anti-Jewish riots of 1391 took place and where the Inquisition trials first commenced. The summer Olympics will open on July 25, 1992.

Although Spain has officially rescinded the Edict of Expulsion and honored the descendants of the Sephardim banished from Spain, Spain has ignored the Conversos, who secretly practiced their ancestral faith and were burned in the fires of the Inquisition.

It is entirely appropriate and just that public memorial observances be held at the opening ceremonies in Seville and Barcelona to honor the Conversos, victims of the Inquisition. King Juan Carlos of Spain has an historic opportunity to proclaim that: We shall not forget our Conversos who chose to observe their ancestral faith and for this risked persecution, torture and death.•

JEWS IN SYRIA

• Mr. BRADLEY. Mr. President, today I rise to express my concern over reports I have heard of the mistreatment of Jews in Syria. This community of 4,000 lives primarily in the cities of Damascus, Aleppo, and Kamishli.

According to testimony given by Alice Sardell Harary, president of the Council for the Rescue of Syrian Jews before the House Subcommittee on Human Rights and International Organizations February 2d, the Syrian Government has prevented Syrian Jews from emigrating and has denied them other rights as well.

Ms. Harary's testimony spoke of a community living under 24-hour surveillance by Syria's secret police. Jewish schools are ordered to submit daily attendance sheets to the secret police. If someone fails to show up for class, the police visit the home to see if the family tried to escape. Travel is severely restricted. Families of anyone who departs Syria are interrogated. I have also been informed by the council that Jews must have the approval of the secret police to purchase or sell property. Religious and lay leaders in the community must report to the secret police.

Mr. President, the State Department's 1991 country reports on human rights practices in 1991 also provided details on this situation. It states that the Syrian Government does indeed closely restrict Jewish emigration. The Government has a general policy of not issuing visas to all members of a Jewish family at the same time. The report also states that Jews are among those who must post a bond of $300–$1,000 in order to leave the country.

Mr. President, I want Syria to know that we, in the Senate, are concerned about these reports of limited emigration and surveillance. President Assad must be made aware that for any improvement of relations, real progress in human rights must be evident.•

DAYTON AREA HEALTH PLAN

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4572, a bill to waive certain Medicaid Program requirements for certain health maintenance organizations in Dayton, OH, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4572) to direct the Secretary of Health and Human Services to waive certain requirements under the medicaid program during 1992 and 1993 for health maintenance organizations operated by the Dayton Area Health Plan in Dayton, Ohio.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, I rise today to express my support for H.R. 4572, legislation to allow for the continued operation of the Dayton Area Health Plan in Montgomery County, OH.

The Dayton Area Health Plan [DAHP] includes three health maintenance organizations [HMO's]—Health Plan Network, DAYMED Health Maintenance Plan, Inc., and Health Power. Aid to Families With Dependent Children recipients in Montgomery County (Dayton), OH, are required to enroll in one of these three HMO's to receive their Medicaid-covered health care. DAHP is currently serving over 42,500 welfare recipients in the Dayton area.

Health Plan Network, which serves over 22,000 Medicaid recipients, is operating under a 3-year waiver of the Federal 3 to 1 enrollment mix requirement. The waiver expires on April 30, 1992, and the administration has advised the State of Ohio that it does not have the legal authority to grant an extension of the waiver beyond 3 years.

H.R. 4572 provides a temporary extension of the Health Plan Network's waiver from the 3 to 1 enrollment mix requirement. In addition, it would allow for the exclusion of up to 4,000 Medicaid enrollees in determining DAYMED Health Maintenance Plan's compliance with the 3 to 1 enrollment mix requirement. These additional enrollees are the expected number of poverty children who will be eligible for Medicaid due to the yearly expansions mandated by Congress.

There is widespread support for the Dayton Area Health Plan from participants, community organizations and health care providers. The State of Ohio supports the waiver extension, and the Bush administration has indicated its support.

I am opposed to dismantling a program that is serving my constituents, especially at a time when Congress and the administration are considering comprehensive reforms regarding Medicaid managed care programs. The people of Dayton and the State of Ohio believe that the Dayton Area Health Plan is doing a good job of providing health care services for welfare recipients and of controlling Medicaid expenditures. For these reasons, I urge my colleagues to join me in passing H.R. 4572.

The PRESIDING OFFICER. The bill is deemed read a third time and passed.

So the bill (H.R. 4572) was deemed read a third time and passed.

Mr. CRANSTON. 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.

TIME LIMITS FOR SENATE EMPLOYEES TO INITIATE PROCEEDINGS UNDER THE CIVIL RIGHTS ACT OF 1991

Mr. MITCHELL. Mr. President, at the conclusion of these remarks, a unanimous-consent request will be propounded that is intended to ensure that the time required to complete the important process of selecting a Director for the Office of Senate Fair Employment Practices and establishing the new Office will not prevent any present or former Senate employee or applicant for Senate employment from initiating proceedings under the Civil Rights Act of 1991 in a timely manner.

Under section 303(b)(4) of the Civil Rights Act of 1991, the Director of the Office of Senate Fair Employment Practices was to have been appointed within 90 days after the date of enactment of the act. Under another provision of the act, section 305(a), proceedings for the review of an alleged violation under the act must be initiated by making a request for counseling in the Office of Senate Fair Employment Practices not later than 180 days after the alleged violation. Section 305(a) also provides that no request for counseling may be made until 10 days after the first Director begins service, in order to provide the first director time to set up the Office before the first requests for counseling are made.

By several unanimous consent agreements, most recently on April 9, 1992, the Senate has extended the time for appointing a Director until May 1, 1992. In addition, pursuant to unanimous consent agreement the Senate has provided that the Director's appointment will take effect within 30 days following the date of appointment, in order to afford the new Director sufficient time to set up the Office. These extensions were necessary to ensure that choosing a Director and establishing the office could be accomplished in a careful and considered manner. As a result of these extensions, and the act's own 10-day period under 305(a) during which a request for counseling may not be filed, it is possible that the Office will not be able to accept requests for counseling until late May or early June of this year.

The unanimous-consent request that I will propound at the conclusion of these remarks is intended to avoid, as a result of these extensions, any potential prejudice to two categories of individuals. The first group includes those individuals who, but for the period specified in the act for appointing a Director, the Senate's subsequent extensions of that period, and the 10-day period under section 305(a), could have timely requested counseling on the date of enactment of the Civil Rights Act of 1991. The second group is comprised of those individuals who, because of the extensions, would have only a short period of time within which to request counseling.

For these two special categories of individuals the unanimous consent would extend the time for requesting counseling 60 days beyond the date on which the first request for counseling could be made under section 305(a). That is, once the Director is appointed, the appointment will take effect within 30 days following the appointment. Following the effective date of appointment, there will be a 10-day period under section 305(a) during which no requests for counseling may be made. Following that 10-day period, the individuals described in the unanimous consent request will have 60 additional days within which to request counseling. All other Senate employees will be required to abide by the time limits ordinarily imposed under section 305(a).

As the changes I have described involve sections of the act governing the Senate's internal procedures that were enacted as part of the Senate's rulemaking authority, it is appropriate that these changes be made by unanimous consent.

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that any Senate employee, as defined in section 301 of the Civil Rights Act of 1991, who alleges that a violation under section 302 occurred within 180 days prior to the date of enactment of the act, or no more than 60 days after the date of enactment of the act, will be deemed to have timely filed a request for counseling under section 305(a) of the act if the request is made not later than 60 days after the date on which the first request for counseling could be made under section 305(a).

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

APPROVING LOCATION FOR A MEMORIAL TO GEORGE MASON

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of House Joint Resolution 402, a joint resolution approving the location of a memorial to George Mason; and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read the third time, passed, and the motion to reconsider be laid upon the table and the preamble be agreed to.

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

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.

Mr. FORD. In 1990 S. 543 was enacted into law as Public Law 101-358. It authorized that a memorial to George Mason be erected on certain lands in the District of Columbia and its environs, subject to the provisions of Public Law 99-652. The latter provisions requires the Secretary of the Interior to notify the Congress of his determination that the memorial authorized should be located in area I, and that his recommendation be approved by Congress. Public Law 99-652 contains a provisions that deems the recommendation disapproved unless approved by law not later than 150 days after Congress is notified. That 150 days expires during the upcoming recess, and unless the Senate acts, the process must begin anew.

House Joint Resolution 402 provides that the location of a memorial to honor George Mason be located in the area described as area I in Public Law 99-652. I recommend passage of the resolution.

Mr. JOHNSTON. Mr. President, I am pleased to support the motion to discharge and pass House Joint Resolution 402, a resolution approving the location of a memorial to George Mason, from the Committee on Rules and Administration.

The George Mason memorial was authorized by Public Law 101-358. On October 10, 1991, the Secretary of the Interior notified Congress of his determination that the memorial should be located in area I, the capital's monumental core area. Section 6(a) of the Commemorative Works Act provides that the Secretary's recommended location within area I for a previously authorized commemorative work shall be deemed disapproved unless legislation is enacted within 150 days after the date the Secretary notifies Congress, affirming such location.

Although all previous bills approving the location of a memorial have been referred to the Committee on Energy and Natural Resources, I am pleased to support this motion because of the immediate need to pass this resolution. In fact, the Energy and Natural Resources' Subcommittee on Public Lands, National Parks and Forests has already held a hearing on an identical Senate companion measure, Senate Joint Resolution 162, which I introduced at the request of the administration on October 25, 1991. That resolution was scheduled to be marked up at the committee's next business meeting. While House Joint Resolution 402 should have been referred to the Energy and Natural Resources Committee, this procedure will allow us to proceed expeditiously without the need for a re-referral.

Mr. President, this resolution is noncontroversial, and immediate passage is necessary to comply with the time requirements contained in the Commemorative Works Act. I urge my colleagues to join in supporting this motion.

Mr. ROBB. Mr. President, I rise today in strong support of House Joint Resolution 402, a resolution to approve the location of a memorial to honor George Mason within area I lands in the District of Columbia.

George Mason is a giant in American history, fully deserving of proper commemoration. He was the author of the Virginia Declaration of Rights, which served as a model for our national Bill of Rights; and historians believe that Mason's refusal to sign the Constitution for its failure, initially, to include a declaration of rights, was a major impetus for eventual adoption of the first 10 amendments to the Constitution. I fully agree with the Secretary of the Interior's finding that Mason, the Father of the Bill of Rights, meets the requirements for placement of a memorial in area I: He is an individual, to be sure, "of preeminent historical and lasting significance to the Nation."

The Commemorative Works Act of 1986, passed into law to prevent overcrowding on The Mall, requires two separate acts of Congress before a memorial may be placed in area I lands in the District of Columbia. In the last Congress I was the principal sponsor of S. 1543, which authorized the board of regents of Gunston Hall, a private, nonprofit organization, to establish a memorial to George Mason on Federal land in the District of Columbia. The bill was signed into law on August 10, 1990 (P.L. 101-358). The resolution now before the Senate would approve the location within area I lands.

The Commemorative Works Act was designed to make the process for placing memorials in certain highly prized areas a difficult one. And the act has succeeded in doing so. According to the National Park Service, 90 new memorials have been proposed since passage of the Commemorative Works Act. Of these, the Mason Memorial is one of only three new initiatives to have been authorized by Congress.

The memorial, which will be built without any Federal funds, has been the subject of two Senate hearings and was also the subject of a hearing before the National Capital Memorial Commission, and lengthy review by the administration. The regents of Gunston Hall have worked tirelessly to make the case for commemorating George Mason and I am pleased that the Senate is taking up this legislation at this time. I fully support the resolution and urge its adoption.

The joint resolution (H.J. Res. 402) was deemed read a third time and passed.

The preamble was agreed to.

TECHNICAL CORRECTION—S. 2620

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2620, a bill introduced earlier today by Senator KENNEDY, to correct a technical oversight in the disadvantaged Minority Health Improvement Act of 1990.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2620) to amend title VII of the Public Health Service Act to correct a technical oversight in the Disadvantaged Minority Health Improvement Act of 1990 (Public Law 101-527) by making schools of osteopathic medicine eligible to participate in the Centers of Excellence program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President. I am introducing with the support of Senator HATCH this amendment to correct a technical oversight in Public Law 101-527, the Disadvantaged Minority Health Improvement Act of 1990. It was the clear intention of the Congress to have included schools of osteopathic medicine among the entities eligible for grants under section 782 of the Public Health Service Act, entitled "Programs of Excellence in Health Professions Education for Minorities." House Report 101-804 stated that "eligible health professions schools would include schools of medicine, osteopathic medicine, and dentistry that demonstrate a strong commitment to the education of minorities and the exploration of these concerns that affect racial and ethnic minority groups." Unfortunately, the bill language neglected to include schools of osteopathic medicine.

Schools of osteopathic medicine have been remarkably successful in increasing the enrollment of underrepresented minorities over the last 10 to 15 years. Individual efforts as well as support under the Health Career Opportunity Program have contributed to the admission, enrollment, retention, and placement of underrepresented minorities in increasing numbers and percentages.

I urge my colleagues to support this technical correction.

The PRESIDING OFFICER. If there are no objections, the bill will be deemed read the third time and passed.

So the bill (S. 2620) was deemed read the third time, and passed, as follows:

S. 2620

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

SECTION 1. TECHNICAL CORRECTION.

Section 782(g)(1)(A) of the Public Health Service Act (42 U.S.C. 295g-2(g)(1)(A)) is amended by inserting "a school of osteopathic medicine," after "school of medicine,".

Mr. CRANSTON. 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.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 432, H.R. 429, an act to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Definition and table of contents.
TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING
Sec. 101. Additional authorization of appropriations.
TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION
Sec. 200. Short title and Definitions for titles II-VI.
Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin Replacement Project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Surplus crops.
TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION
Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.
TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT
Sec. 401. Findings and purpose.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.
TITLE V—UTE INDIAN RIGHTS SETTLEMENT
Sec. 501. Findings.
Sec. 502. Provisions for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.
TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT
TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO
Sec. 701. Authorization.
Sec. 702. Costs nonreimbursable.
Sec. 703. Operation and maintenance.
Sec. 704. Appropriations authorized.
Sec. 705. Limitation.
Sec. 706. Design and operation notification.

Sec. 707. Fish and wildlife restoration.
Sec. 708. Water quality restoration.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

Sec. 801. Authorization.
Sec. 802. Construction contract.
Sec. 803. Project costs.
Sec. 804. Construction and control.
Sec. 805. Appropriations authorized.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

Sec. 901. Authorization.
Sec. 902. Contract.
Sec. 903. Contract.
Sec. 904. Transfer of district headquarters.
Sec. 905. Liability and indemnification.
Sec. 906. Additional actions.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

Sec. 1001. Designation.
Sec. 1002. References.

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

TITLE XII—GRAND CANYON PROTECTION

Sec. 1201. Short title.
Sec. 1202. Protection of Grand Canyon National Park.
Sec. 1203. Interim protection of Grand Canyon National Park.
Sec. 1204. Glen Canyon Dam environmental impact statement; long-term operation of Glen Canyon Dam.
Sec. 1205. Long-term monitoring.
Sec. 1206. Rules of construction.
Sec. 1207. Studies nonreimbursable.
Sec. 1208. Authorization of appropriations.
Sec. 1209. Replacement power.

TITLE XIII—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

Sec. 1301. Short title.
Sec. 1302. Demonstration program.
Sec. 1303. Planning reports—environmental impact statements.
Sec. 1304. Authorization of the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota.
Sec. 1305. Conditions.
Sec. 1306. Indian employment.
Sec. 1307. Federal Reclamation laws govern.
Sec. 1308. Cost sharing.
Sec. 1309. Authorization of appropriations.
Sec. 1310. Indian water rights.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

Sec. 1401. Short title.
Sec. 1402. Definitions.
Sec. 1403. Federal assistance for rural water system.
Sec. 1404. Federal assistance for wetland development and enhancement.
Sec. 1405. Water conservation.
Sec. 1406. Mitigation of fish and wildlife losses.
Sec. 1407. Use of Pick-Sloan power.
Sec. 1408. Rule of construction.
Sec. 1409. Water rights.
Sec. 1410. Use of government facilities.
Sec. 1411. Authorization of appropriations.

TITLE XV—SAN LUIS VALLEY PROTECTION, COLORADO

Sec. 1501. Permit issuance prohibited.
Sec. 1502. Judicial review.
Sec. 1503. Costs.
Sec. 1504. Disclaimers.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION, NORTH DAKOTA

Sec. 1601. Irrigation on Standing Rock Indian Reservation.

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

Sec. 1701. Authorization for South Dakota Water Planning Studies.

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

Sec. 1801. Findings and declarations.
Sec. 1802. Transfer of operation and maintenance responsibility of Platoro Reservoir.
Sec. 1803. Definitions.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Sec. 1901. Short title.
Sec. 1902. General authority.
Sec. 1903. Appraisal investigations.
Sec. 1904. Feasibility studies.
Sec. 1905. Research and demonstration projects.
Sec. 1906. Southern California comprehensive water reclamation and reuse study.
Sec. 1907. San Jose area water reclamation and reuse program.
Sec. 1908. Phoenix metropolitan water reclamation study and program.
Sec. 1909. Tucson area water reclamation study.
Sec. 1910. Lake Cheraw water reclamation and reuse study.
Sec. 1911. San Francisco area water reclamation study.
Sec. 1912. San Diego area water reclamation program.
Sec. 1913. Los Angeles area water reclamation and reuse project.
Sec. 1914. San Gabriel Basin demonstration project.
Sec. 1915. Authorization of appropriations.
Sec. 1916. Groundwater study.
Sec. 1917. Authorization of appropriations.

TITLE XX—SALTON SEA RESEARCH PROJECT, CALIFORNIA

Sec. 2001. Research project to control salinity.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

Sec. 2101. Clarification of cost-share requirements.

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

Sec. 2201. Sale of Bureau of Reclamation loans.
Sec. 2202. Savings provisions.
Sec. 2203. Fees and expenses of program.
Sec. 2204. Termination of authority.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

Sec. 2301. Sale of the Freeman Diversion Improvement Project loan.
Sec. 2302. Termination and conveyance of rights.
Sec. 2303. Termination of authority.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

Sec. 2401. Repayment of water pumps, San Juan Suburban Water District, Central Valley Project, California.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

Sec. 2501. Conveyance to Sunnyside Valley Irrigation District.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

Sec. 2601. High Plains States Groundwater Demonstration Program Act.

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

Sec. 2701. Consent to amendment to Sabine River compact.
Sec. 2702. Compact described.
Sec. 2703. Amendment.

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

Sec. 2801. Pick-Sloan project pumping power.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

Sec. 2901. Transfer.
Sec. 2902. Limitation.
Sec. 2903. Effect of Act on other laws.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Definitions.
Sec. 3004. Amendments to the Federal Water Project Recreation Act.
Sec. 3005. Management of Reclamation lands.
Sec. 3006. Protection of authorized purposes of Reclamation projects.
Sec. 3007. Maintenance of effort.

TITLE XXXI—WESTERN WATER POLICY REVIEW

Sec. 3101. Short title.
Sec. 3102. Congressional findings.
Sec. 3103. Presidential review.
Sec. 3104. The Advisory Commission.
Sec. 3105. Duties of the Commission.
Sec. 3106. Representatives.
Sec. 3107. Powers of the Commission.
Sec. 3108. Powers and duties of the Chairman.
Sec. 3109. Other Federal agencies.
Sec. 3110. Appropriations.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

Sec. 3201. Payment by Mountain Park Master Conservancy District.
Sec. 3202. Reschedule of repayment obligation.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

Sec. 3301. South Dakota biological diversity trust.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

Sec. 3401. Short title.
Sec. 3402. Statement of purpose.
Sec. 3403. Definitions.
Sec. 3404. Protection, restoration, and enhancement of Central Valley fish and wildlife habitat.
Sec. 3505. Establishment of the Central Valley Project Fish and Wildlife Advisory Committee.
Sec. 3406. Establishment of Central Valley Project Fish and Wildlife Task Force.
Sec. 3407. Provisions for transfer of Central Valley Project Water.
Sec. 3408. Agricultural water conservation feasibility studies.
Sec. 3409. Implementation.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM, NORTH DAKOTA

Sec. 3501. Short title.
Sec. 3502. Definitions.
Sec. 3503. Findings; declarations.
Sec. 3504. Funds.
Sec. 3505. Eligibility for other services not affected.
Sec. 3506. Per capita payments prohibited.
Sec. 3507. Standing Rock Sioux Indian Reservation.
Sec. 3508. Transfer of land.
Sec. 3509. Transfer of lands at Oahe Dam and Lake Project.
Sec. 3510. Conforming amendment.
Sec. 3511. Authorization of appropriations.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

Sec. 3601. Definitions.
Sec. 3602. Wetland trust.
Sec. 3603. Authorization of appropriations.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97–293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II–VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A–2–1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(13) The term "State" means the State of Utah, its political subdivisions, or its designee.

(14) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for the design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88–45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow.

(B) The Deep Creek pumping plant.

(C) The North Fork pumping plant.

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals.

(B) Draining of Benjamin Slough.

(C) Diking of Goshen or Provo Bays in Utah Lake.

(D) Ute Indian Unit.

(E) Leland Bench development.

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202 BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Jaub, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if

such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady State conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize section 8 funds which may be available from fiscal year 1992 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the United States Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(1).

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, T. 3 S., R. 12 W., and sections 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203 UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features pro-

vided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within 120 days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the non-Federal interests will satisfy the cost sharing provisions as set forth in this section. Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within 120 days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analy-

ses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses; or

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Jaub counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account—

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water

saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) Recovery of all costs, including a reasonable return on investment, through water and wastewater service charges.

(B) Seasonal rate differentials.

(C) Drought year surcharges.

(D) Increasing block rate schedules.

(E) Marginal cost pricing.

(F) Rates accounting for differences in costs based upon point of delivery.

(G) Rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of ground water resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and ground water supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) Metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) Elimination of declining block rate schedules from any system of water or wastewater treatment charges.

(C) A program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less.

(D) Low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction.

(E) Requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities.

(F) Requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction.

(G) Requirements for the insulation of hot water pipes in all new construction.

(H) Requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems.

(I) Standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices.

(J) Elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be—

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The Court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the

President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the members of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) FUNDING FOR NEPA COMPLIANCE.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Comission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act—

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302 INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Herber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company Water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in

quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April; and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased

from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Current Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanville Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102-267).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102-267).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and develop-

ment of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies and ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	FY96	FY97	FY98	
Instream flows				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
Wetland acquisitions rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	FY96	FY97	FY98	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775
	FY96	FY97	FY98	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	$150	$150	$200	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$100	$100	$100	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000	
Subtotal	$7,850	$9,850	$9,750	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400
	FY96	FY97	FY98	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700	
Subtotal	$1,400	$1,400	$1,400	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	FY96	FY97	FY98	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	FY96	FY97	FY98	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150	
Subtotal	$2,175	$2,425	$2,300	
	TOTAL	FY93	FY94	FY95
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700
Total Additional	$133,290	$11,115	$25,175	$24,350
	FY96	FY97	FY98	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve

many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSE.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), a well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following:

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the tribe negotiated, but did not implement, a compact to quantify the tribe's reserved water rights.

(2) There are other unresolved tribal claims arising out of an agreement dated September 20, 1965, where the tribe deferred development of a portion of its reserved water rights for 15,242 acres of the tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indian and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year from the date of enactment of this Act, and continuing for 50 years, the tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the tribe under this title shall be utilized by the tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by

this Act. In the event that the tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the tribe and shall only apply when the tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the tribe to develop over a three-year period—

(1) a 7,500-acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the tribe, to permit the tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the tribe. The financial consultants shall be selected by the tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The tribe shall waive, upon receipt of the section 504, 505, and

506 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA 89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO 0021717 issued to he Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President Pro Tempore of the Senate and the Speaker of the House of Representatives for a period of not less than 60 days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other development in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section: Provided, That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary is consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary in authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT.

(a) The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) All project costs for verification, design preparation, and construction management (estimated to be approximately 33 percent of the total project cost) shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) The Secretary shall, upon entering into a mutually acceptable agreement with the Authority, proceed with preconstruction planning, preparation of designs and specifications, ac-

quiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) At any time following the first advance of funds by the Authority, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 percent of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, and reimbursement of Federal costs pursuant to subsection 804(b) of this title, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements, or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds. Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 805. APPROPRIATIONS AUTHORIZED.

There are hereby authorized to be appropriated to carry out the provisions of this title the sum of $3,000,000 (October 1989 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuation in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(a) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0-07-70-W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation of fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1001. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1002. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1001 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980, (94 Stat. 3227) is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend Contract 178r-458, all facilities are hereby transferred to the district. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately 2,800 acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract No. 14-06-500-1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1990, and expiring January 17, 1992, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract No. 14-06-500-1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project.".

TITLE XII—GRAND CANYON PROTECTION

SEC. 1201. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1202. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in section 1204 and exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including, but not limited to, the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1203. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) INTERIM OPERATIONS.—Pending compliance by the Secretary with section 1204, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of

Reclamation and the Western Area Power Administration executed October 2, 1991, and exercise other authorities under existing law, in accordance with the standards set forth in section 1202, utilizing the best and most recent scientific data available.

(b) CONSULTATION.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian Tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) DEVIATION FROM INTERIM OPERATIONS.—The Secretary may deviate from interim operations upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of section 1204(a);

(2) respond to hydrologic extremes or power system operation emergencies;

(3) comply with the standards set forth in section 1202;

(4) respond to advances in scientific data; or

(5) comply with the terms of the Interagency Agreement.

(d) TERMINATION OF INTERIM OPERATIONS.—Interim operations described in this section shall terminate upon compliance by the Secretary with section 1204.

SEC. 1204. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than two years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report the results of the audit to the Secretary and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS.—(1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968; and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1202.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT TO CONGRESS.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream of Glen Canyon Dam.

(e) ALLOCATION OF COSTS.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1202 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1202 purposes shall be nonreimbursable.

SEC. 1205. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with that of section 1202.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1204(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1206. RULES OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act (16 U.S.C. 1531 et seq.).

SEC. 1207. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170).

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 1209. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with representatives of the Colorado River Storage Project power customers, environmental organizations and the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by section 1204 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than 2 years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power.

TITLE XIII—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

SEC. 1301. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 1302. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study", dated May 1990, a copy of which is on file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving preference to crops that

are not eligible for assistance under programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) Rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor.

(2) The Secretary shall—

(A) supply all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) determine crop rotations and cultural practices; and

(E) have unrestricted access to leased lands;

(3) The Secretary may contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed as prescribed by the Secretary.

(4) No grazing may be performed on a study site;

(5) Crops grown shall be the property of the United States.

(6) At the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. Each such study site farm will, during the demonstration phase of the Demonstration Program, annually receive planted and considered planting credit equal to the crop acreage base established for the farm by use of crop land ratios when it became a separate farm without regard to the acreage actually planted on the farm. Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriate for the Demonstration Program, shall transfer to the other Federal agencies funds appropriate for their expenses.

SEC. 1303. PLANNING REPORTS-ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 1302, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof. Using feasibility methodologies consistent with those employed in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement, filed September 17, 1985, the final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency. The final report for the Lake Andes-Wagner Unit shall constitute a supplement to the Lake Andes-Wagner Unit report referred to in the preceding sentence.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention, correction, or mitigation of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the unit to which the report pertains and shall be accompanied by findings by the Secretary and the Administrator of the Environmental Protection Agency that the unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards.

(c) The construction of a unit may not be undertaken until the final report pertaining to that unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than 125 days and the Congress has appropriated funds for the initiation of construction.

SEC. 1304. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 1303 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 1305. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 1303 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 1303 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than 40 years following the development period. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of that Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that unit may be utilized to provide fish and wildlife benefits be-

yond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that unit for irrigation purposes.

SEC. 1306. INDIAN EMPLOYMENT.

In carrying out sections 1302, 1304, and 1305 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 1307. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 1308. COST SHARING.

(a) IN GENERAL.—The proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Energy and Natural Resources of the Senate and with the Committee on Interior and Insular Affairs of the House of Representatives), pursuant to which the State of South Dakota (hereafter in this section referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereinafter in this section referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved subject to the provisions of subsections (b) and (c) of this section. The Secretary shall promptly enter into negotiations with the State and District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) The agreement shall include provisions for—

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess remains reimbursable, subject to the conditions that—

(A) construction of the closed drainage system shall commence not earlier than the 6th year of full operation of the unit and shall continue over a period of 35 years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions;

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance, not to exceed $36,000,000, the construction of the closed drainage system; and

(C) in the event the detailed plan of the Lake Andes-Wagner Unit referred to in subsection (b) of section 1303 reduces the irrigated acreage of the Lake Andes-Wagner Unit to less than 45,000, the District's maximum obligation hereunder shall be reduced in the ratio that the reduction in acreage bears to 45,000.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 1304 of this title (other than the costs apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include—

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) savings to the United States by reason of paragraph (2) of subsection (b) of this section;

(3) savings to the United States by reason of administering the design and construction of any other feature or features of the Lake Andes-Wagner Unit, and of any feature or features of the Marty II Unit, the design and construction of which is administered by the district pursuant to an agreement with the Secretary;

(4) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(5) any feature to which this section applies shall not be initiated until after the district and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 1305 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 1308 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 1305 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each unit.

SEC. 1310. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1402. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1405 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "summer electrical season" means May through October of each year;

(5) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(6) the term "Western" means the Western Area Power Administration;

(7) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(8) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1403. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural,

and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc., and water conservation measures consistent with section 1405 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1412 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc., under the provisions of this title shall be repaid, with interest, within 30 years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than 90 days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1404. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1405. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following:

(1) Low consumption performance standards for all newly installed plumbing fixtures.

(2) Leak detection and repair programs.

(3) Metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers).

(4) Declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study).

(5) Public education programs.

(6) Coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1406. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1407. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1408. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1409. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1410. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1411. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1403, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1404; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1404;

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1411.

TITLE XV—SAN LUIS VALLEY PROTECTION

SEC. 1501. PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not—

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other federal reclamation project.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION

SEC. 1601. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

Section 5(e) of Public Law 89-108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986, is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1701. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516). Section 3(b)(1) of the Mni Wiconi Project Act of 1988 is amended by striking "shall" and inserting "may".

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 1801. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 1802(d) of this title.

SEC. 1802. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The district will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the district for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection (d).

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 1802 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof; and

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1901. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

SEC. 1902. GENERAL AUTHORITY.

(a) The Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

SEC. 1903. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provision thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, state and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1904. FEASIBILITY STUDIES.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1903 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 percent of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 percent of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1906 and 1908 through 1910 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1905. RESEARCH AND DEMONSTRATION PROJECTS.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 percent of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480) as amended by the Technology Transfer Act of 1986 (Pub. L. 99-502).

SEC. 1906. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernadino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

SEC. 1907. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1908. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, ground water recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the city of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1909. TUCSON AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1910. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on ground water resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1911. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the cost of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1912. SAN DIEGO AREA WATER RECLAMATION PROGRAM.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to re-

claim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1913. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for operation or maintenance of the project.

SEC. 1914. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility: Provided, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1915. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1901 through 1914 of this title.

SEC. 1916. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on ground water, and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a ground water management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1917.

SEC. 1917. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1916.

TITLE XX—SALTON SEA RESEARCH PROJECT

SEC. 2001. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80-858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81-516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: Provided, however, That the Federal property benefits exceed 50 percent of the total project benefits.

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2201. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a-422l) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14-06-200-8423A and 14-06-200-842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2202. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applications of the provisions of Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific act of Congress.

SEC. 2203. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2204. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2301. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-20-W0615 and was entered into pursuant to the

Small Reclamation Projects Act of 1956 (43 U.S.C. 442a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2302. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and,

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2303. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 2401. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project rate setting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau.

(2) The credit is effective on the date the pumps were delivered to the Bureau for installation at Folsom Dam.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2501. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 2701. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 2703, to the interstate compact, described in section 2702, relating to the waters of the Sabine River and its tributaries.

SEC. 2702. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 2703. AMENDMENT.

The amendment referrred to in section 2701 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

SEC. 2801. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

(b) Power made available under this section shall be at the firm power rate.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 2901. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 2902. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 2903. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

SEC. 3002. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 3003. DEFINITIONS.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term 'Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3004. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C.460l-13(a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 460l-14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460l-15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance, and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460l-14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

"(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

"(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l-18(a)) is amended—

(1) by striking "purposes: Provided," and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

SEC. 3005. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 3006;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses made of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3006. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project.

SEC. 3007. MAINTENANCE OF EFFORT.

Prior to making an expenditure for the construction, operation, and maintenance of any expansion of a recreation facility under section 3004(d) of this title at any project, the Secretary must determine that the expansion will not result in a delay or postponement of, or a lack of funding for, the repair, replacement, or rehabilitation of the water storage or delivery features which are necessary for the authorized purposes of such project.

TITLE XXXI—WESTERN WATER POLICY REVIEW

SEC. 3101. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to

have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, has the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3103. PRESIDENTIAL REVIEW.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Interior and Insular Affairs and Appropriations of the House of Representatives.

(b) Such report shall be submitted within five years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3104 of this title, and may request the Secretary of the Interior or other Federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3104. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title.

(b) The Commission shall be composed of 18 members as follows:

(1) Ten members appointed by the President including—

(A) the Secretary of the Interior or his designee;

(B) at least one representative chosen from a list submitted by the Western Governors Association; and

(C) at least one representative chosen from a list submitted by tribal governments located in the Western States.

(2) In addition to the 10 members appointed by the President, the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives shall serve as ex officio members of the Commission.

(c) The President shall appoint one member of the Commission to serve as Chairman.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3105. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3106. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title;

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian tribes and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3107. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel can not be obtained from the Secretary of the Interior or by detail from other Federal agencies. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) The Secretary of the Interior shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3108. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3107(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3109. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3107(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3110. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this title.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3201. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(a) IN GENERAL.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) PAYMENT AMOUNT.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined acccording to this section.

(c) INTEREST RATE.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) INVESTIGATIONS.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) TAX-EXEMPT FINANCING.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) LIMIT ON INTEREST RATE.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) TERMINATION OF AUTHORITY.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

(i) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma; and

(3) the term "project" means the Mountain Park Project, Oklahoma.

SEC. 3202. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: Provided, That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than 12 months after the date of enactment of this section.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

SEC. 3301. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to appropriations therefore and the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The trust is established by non-Federal interests as a nonprofit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The trust is under the direction of a board of trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the trust.

(3) The board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the board are filled in the manner in which the original appointments were made. Any member of the board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the board shall serve without compensation.

(5) The Corporate purposes of the trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) The trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale natural ecosystems in accordance with its corporate purpose.

(2) The trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust.

(3) Proceeds from the trust are used for the following purposes:

(A) $10,000 per year or 5 percent of the total funds expended by the trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do the following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with trust proceeds will be held by the public agency or private nonprofit organization which proposed and completed the project, or another conservation owner with the approval of the board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the board, trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a stewardship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the trust and other endowments. The endowments will be managed by the trust board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the trust may be used for management of public or private lands, includ-

ing but not restricted to lands purchased with trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) Restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota.

(2) Acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems.

(3) Provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection.

(4) Provide expanded recreational opportunities; and

(5) Support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) Reconstitute natural biological diversity that has been diminished.

(2) Assist the recovery of species populations, communities and ecosystems that are unable to survive on-site without intervention.

(3) Allow reintroduction and reoccupation by native flora and fauna.

(4) Control or eliminate exotic flora and fauna which are damaging natural ecosystems.

(5) Restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife.

(6) Provide additional conservation values to state and local government lands.

(7) Add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves.

(8) Restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Fish and Wildlife Act of 1992."

SEC. 3402. STATEMENT OF PURPOSE.

The purposes of this title are—

(a) to protect, restore, and enhance fish and wildlife habitat in the Central Valley of California as specifically provided for within this title;

(b) to partially mitigate the impacts of the Central Valley Project on fish and wildlife habitat by requiring the implementation of specific habitat restoration actions;

(c) to provide for the continued orderly operation of the Central Valley Project by resolution of fish and wildlife issues impacts;

(d) to establish a joint Federal and state advisory committee to identify, develop and assist the Secretary of the Interior in the implementation of habitat restoration actions identified in this title and a Federal task force to assist the Secretary of the Interior in the identification and development of additional habitat restoration actions that would provide means by which the mitigation of Central Valley Project impacts on fish and wildlife habitat and cost effective protection, restoration, and enhancement of fish and wildlife habitat and resources in the Central Valley of California may be accomplished;

(e) to encourage, through cost sharing and other related actions, the cooperation and contribution by the State of California and other non-Central Valley Project entities toward the protection, restoration and enhancement of fish and wildlife habitat within the Central Valley of California;

(f) to increase the benefits provided by the Central Valley Project to California through the expanded use of water conservation and water transfers;

(g) to achieve the purposes of this title through implementation of projects, procedures and programs which do not result in further degradation of resources, including, but not limited to, groundwater, of the areas presently served by the Central Valley Project; and

(h) to coordinate the efforts and actions authorized in this title with other activities being undertaken within the State of California to ensure that work is not unnecessarily duplicated and is coordinated to minimize inconsistent and counter-productive results and maximize the benefits to be obtained.

SEC. 3403. DEFINITIONS.

As used in this title:

(a) The term "anadromous fisheries" includes runs of salmon, striped bass, steelhead trout, sturgeon, and American shad that ascend the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in the San Francisco Bay and/or the ocean.

(b) The terms "artificial propagation" and "artificial production" include spawning, hatching, incubating, and rearing fish in a hatchery or other facility constructed for fish production.

(c) The term "Central Valley" means the watershed of the Sacramento and San Joaquin Rivers and their tributaries including the Sacramento-San Joaquin Delta.

(d) The term "Central Valley Project" means the Central Valley Project, California, as authorized in the Act of August 26, 1937 (50 Stat. 850) and all acts amendatory thereto.

(e) The term "Central Valley Project Fish and Wildlife Advisory Committee" means the Committee established in section 3405 of this title.

(f) The term "Central Valley Project Fish and Wildlife Task Force" means the Task Force established in section 3406 of this title.

(g) The term "Central Valley Project Service Area" means that area where water service has been authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project.

(h) The term "Central Valley Project water" means all water that is diverted, stored or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange" and Sacramento River settlement contracts.

(i) The term "Central Valley Project Water Contractor" means any entity which contracts for Central Valley Project water.

(j) The term "Central Valley Project Water Contractors Fund" means the fund established in section 3404(h) of this title.

(k) The term "Central Valley Refuges" includes the Sacramento, Delevan, Colusa, Sutter, Kesterson, San Luis, Merced, Pixley, and Kern National Wildlife Refuges, the Grassland Resource Conservation District, the Gray Lodge, Los Banos, Volta, and Mendota State Wildlife Areas, and those National Wildlife Refuges and State Wildlife Areas identified in the Bureau of Reclamation's report entitled San Joaquin Basin Action Plan/Kesterson Mitigation Plan (1989).

(l) The term "critically overdrafted groundwater basin" means those areas defined by the California Department of Water Resources, in its Bulletin No. 118-80, to have a critical groundwater overdraft problem.

(m) The term "natural production" means fish produced to adulthood without the direct intervention of man in the spawning or rearing processes.

(n) The term "Refuge Water Supply Report" means the report entitled Report on Refuge Water Supply Investigations, published in March 1989 by the Bureau of Reclamation, Department of the Interior.

(o) The term "transfer" means—

(1) all conjunctive use programs that provide for the transfer of all or a portion of the surface water made available by the use of groundwater as a substitute supply to another water use;

(2) exchanges between water users;

(3) groundwater storage programs that provide for transfer of all or a portion of the stored water to another water user directly or through exchange;

(4) conservation programs that provide for all or a portion of the water conserved to be transferred to another water user; or

(5) purchase of water through fallowing programs that allow water to be moved from a Central Valley Project contractor to another water user on a short or long-term basis.

SEC. 3404. PROTECTION, RESTORATION, AND ENHANCEMENT OF CENTRAL VALLEY FISH AND WILDLIFE HABITAT.

(a) GENERAL AUTHORITY.—The Secretary shall—

(1) implement the actions established by section 3404(b);

(2) develop, select, and implement actions, using the criteria established in section 3404(e), that address the fish and wildlife habitat issues listed in section 3404(c);

(3) as provided in section 3405, establish a "Central Valley Project Fish and Wildlife Advisory Committee" that will make recommendations to the Secretary with respect to the actions set forth in section 3404(b) and 3404(c) using the criteria established in section 3404(e); and

(4) as provided in section 3406, establish a "Central Valley Project Fish and Wildlife Task Force" that will identify additional actions that would protect, restore, and enhance the Central Valley fish and wildlife habitat, develop the technical information needed to evaluate these actions, determine the economic and biological feasibility of these actions using the criteria established in section 3404(e), and report the findings to Congress for implementation authorization.

(b) INITIAL ACTION.—Subject to limitations contained in sections 3404(f)(6) and 3404(f)(7), the following fish and wildlife habitat protection, restoration, and enhancement actions shall be implemented by the Secretary.

(1) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1992, which, when implemented, will mitigate the direct fishery losses associated with the operation of the Tracy Pumping Plant. Direct losses are defined as fish lost after they enter the Tracy Pumping Plant intake channel, taking into account numbers of fish that survive and are returned to the Sacramento-San Joaquin Delta. The cost of this action shall be allocated under section 3404(f)(1).

(2) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1994, which, when imple-

mented, will mitigate for direct fishery losses associated with the operation of the Contra Costa Canal Pumping Plant No. 1. Direct fishery losses are defined as fish lost after they enter Rock Slough. The cost of this action shall be allocated in the same manner as costs associated with the Contra Costa Canal are currently paid.

(3) Installation and operation of a structural temperature control device at Shasta Dam and development and implementation of modifications in Central Valley Project operations, if needed, by December 31, 1995, to allow for control of water temperatures in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam sufficient to protect salmon. The cost of this action shall be allocated under section 3404(f)(1).

(4) The Coleman National Fish Hatchery shall be rehabilitated and expanded by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan by December 31, 1995. The Secretary shall negotiate and execute a contract for the operation of the hatchery by the California Department of Fish and Game. The contract shall provide that its operation shall be coordinated with all other mitigation hatcheries in California. In addition, the Keswick Dam Fish Trap shall be modified to provide for its operation at all project flow release levels. The cost of this action shall be allocated under section 3404(f)(1).

(5) The negotiation and execution of an agreement with the California Department of Fish and Game, within one year after the enactment of this Act, which, when implemented, will eliminate, to the extent practical, losses of salmon and steelhead trout due to flow fluctuations caused by the operation of Keswick, Nimbus, and Lewiston Regulating Dams. The agreement shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex. Any costs associated with this Agreement shall be nonreimbursable.

(6) A gravel replenishment program shall be developed and implemented by December 31, 1993, for the purpose of restoring and replenishing, on a continuous basis, spawning gravel lost due to the construction and operation of Shasta, Folsom and New Melones Dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream of Nimbus and Goodwin Dams, respectively. The cost of this action shall be allocated under section 3404(f)(2).

(7) A Delta Cross Channel monitoring and operational program shall be developed and implemented, within one year after the enactment of this Act, for the purpose of protecting striped bass eggs and larvae as they approach the Delta Cross Channel gates. This program includes, but is not limited to, closing the Delta Cross Channel gates during times when significant numbers of striped bass eggs and larvae approach the Sacramento River intake to the Delta Cross Channel. Since this action will, by its nature, also restrict pumping at the Tracy Pumping Plant, other restrictions on the operation of the Delta Tracy Pumping Plant, which may currently exist to protect striped bass eggs and larvae, shall be modified, relaxed or eliminated to comport with this action. The cost of this action shall be allocated under section 3404(f)(1).

(8) The Secretary shall, either directly or through an agreement with the State of California, provide dependable water supplies of suitable quality to the Central Valley Refuges in accordance with Level 2 quantity and delivery schedules of the "Dependable Water Supply Needs" table for that refuge, as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. If the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then the Secretary shall impose shortages on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors. The Secretary shall implement the actions authorized herein without a reduction in the pumping and/or conveyance capacity needed to serve other Central Valley Project purposes. The Secretary shall encourage the conjunctive use of surface water and groundwater and the multiple use of water supplies as a means to facilitate the purposes and intent of this subsection. The dependable water supplies provided to the Central Valley Refuges pursuant to this subsection shall be delivered until the firm water supplies provided for in section 3404(c)(13) are available to these refuges, and shall be provided pursuant to agreements between the Secretary, the California Department of Fish and Game, and the Grasslands Resource Conservation District which shall be executed within one year after the enactment of this Act. Fifty percent of the cost of providing water to private refuges shall be paid for by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(2).

(9) The Secretary, in coordination with the California Department of Fish and Game, shall, within one year after the enactment of this Act, establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section and section 3404(c). The cost of this action shall be allocated under section 3404(f)(2).

(c) HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7), and utilizing the criteria in section 3404(e), the Secretary shall develop, evaluate, select, and, unless otherwise specifically provided, by December 31, 2000, implement actions that will address the following fish and wildlife protection, restoration and enhancement issues:

(1) The Secretary shall develop and implement a program to eliminate the need to reduce Keswick Dam releases every Spring to place the Anderson-Cottonwood Irrigation District Diversion Dam into operation, and every Fall to take the Dam out of operation. Additionally, the program will include structural measures needed to address upstream migrating adult salmon passage problems at the Diversion Dam due to inadequate ladder attraction flows. The cost of this action shall be allocated under section 3404(f)(3).

(2) The Secretary shall develop and implement a program to minimize fish passage problems for salmon at the Central Valley Project Red Bluff Diversion Dam. The cost of this action shall be allocated under section 3404(f)(4).

(3) The Secretary shall develop and implement a program to augment natural production of salmon and steelhead trout population levels in the San Joaquin River system in above normal water years through means of artificial production. The cost of this action shall be allocated under section 3404(f)(2).

(4) The Secretary shall construct and operate a new satellite hatchery to augment the single and dual purpose channels at the Tehama Colusa Fish Facility and to further mitigate the impact of Shasta Dam on fishery resources. The new satellite hatchery shall be located at a suitable location upstream of the Red Bluff Diversion Dam. This new hatchery shall be operated by the California Department of Fish and Game under contract with the Secretary. The cost of this action shall be allocated under section 3404(f)(2).

(5) The Secretary shall construct a salmon and steelhead trout hatchery on the Yuba River. The Secretary shall negotiate and execute a contract with the California Department of Fish and Game to operate the hatchery. The objective of such hatchery is to assist in California's efforts to realize the full potential of salmon and steelhead trout natural production on that river and to assist in maintaining the existing runs of salmon and steelhead trout and create enhancement potential for natural production in above normal water years. The cost of this action shall be allocated under section 3404(f)(3).

(6) The Secretary shall negotiate and execute an agreement with the California Department of Fish and Game by December 31, 1993 that requires the release of the minimum flows necessary to take full advantage of the spawning, incubation, rearing and outmigration potential of the upper Sacramento River and the Lower American River for salmon subject to the physical capabilities of the Central Valley Project facilities involved. The Agreement shall provide for less than these minimum flows in dry and critical water years if the Secretary determines that in so doing the Secretary can minimize the impacts of providing the fishery flows on other Central Valley Project authorized purposes, provided the fishery benefits lost in those years are offset by enhancing spawning, incubation, rearing and outmigration conditions in other water years. The cost of this action shall be allocated under section 3404(f)(1). The Secretary is authorized to assist in the funding of biological studies, in cooperation with the California Department of Fish and Game and the California State Water Resources Control Board, focused on furthering the scientific understanding of the salmon fishery in these rivers and to provide the information needed to verify that the intended fishery benefits are being provided by the minimum fishery requirements in this agreement and to allow for adjustments to the flow requirements in the future, if needed. If the Secretary and the California Department of Fish and Game determine that the flow conditions in the upper Sacramento River and the lower American River provided by the Central Valley Project under this agreement are better than conditions that would have existed in the absence of the Central Valley Project facilities, the enhancement provided shall become credits to be provided Central Valley Project water and power contractors to offset future mitigation responsibilities identified pursuant to section 3404(d).

(7) The Administrator of the Environmental Protection Agency is directed to expedite and by no later than December 31, 1995, complete efforts to clean up mines causing intermittent releases of lethal concentrations of dissolved metals from the Spring Creek Debris Dam. In the interim, the Secretary shall provide water from Keswick Dam sufficient to dilute the Spring Creek Debris Dam discharges to concentration levels that allow survival of fish life below Keswick Dam except when the United States Corps of Engineers' flood control criteria for Shasta Dam limit that capability. The cost of this action, not including the cost of EPA actions, shall be allocated under section 3404(f)(3). If the Administrator of the Environmental Protection Agency fails to complete such efforts by December 31, 1995, all such costs shall be assumed by the Agency.

(8) The Secretary shall provide flows to allow sufficient spawning, incubation, rearing and outmigration conditions for salmon and steelhead trout from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game

after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. The cost of providing the required flows shall be allocated under section 3404(f)(1). Any Federal cost associated with the restoration of the Clear Creek or in the construction of a fish ladder at the McCormick-Saeltzer Dam shall be allocated under section 3404(f)(3).

(9) The Secretary is authorized to construct, in partnership with the State of California, a barrier at the head of Old River in the Sacramento-San Joaquin Delta, by December 31, 1995, to partially mitigate the impact of the Central Valley Project and State Water Project pumping plants in the south Sacramento-San Joaquin Delta on the survival of young outmigrating salmon that are diverted from the San Joaquin River to the pumps. The cost of constructing, operating and maintaining the barrier shall be shared 50 percent by the State of California and 50 percent by the Federal government. The Federal share shall be allocated under section 3404(f)(1).

(10) The Secretary shall evaluate and implement a program to correct a defective fish screen at the Glenn-Colusa Irrigation District's Sacramento River diversion which was constructed with Federal and state funding and which does not function due to design errors. The cost of this action shall be allocated under section 3404(f)(3).

(11) The Secretary shall assist in the funding, in coordination with the California Department of Fish and Game, of enforcement measures that will reduce the numbers of striped bass illegally taken from the San Francisco Bay Estuary. The cost of this action shall be allocated under section 3404(f)(3).

(12) The Secretary shall provide such assistance as may be requested by the State of California to develop and implement fishing regulations that will protect the older more productive striped bass females in order to maintain a viable reproducing striped bass population.

(13) The Secretary shall develop and implement measures that will provide additional dependable water supplies of suitable quality. The conveyance capacity needed to deliver this water and associated refuge facilities to permit full habitat development of the Central Valley Refuges and the water provided shall be up to the level 4 quantity and delivery schedules in the "Dependable Water Supply Needs" table as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. Water for this purpose shall be provided by: (1) the Secretary providing Central Valley Project water supply on a firm basis equal to the amount currently delivered by the Central Valley Project on a nonfirm basis, provided that if the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then shortages shall be imposed on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors; (2) voluntary water conservation or conjunctive use purchases provided the surface water being made available through conjunctive use does not come from an area in a critically overdrafted groundwater condition and the conserved water being purchased would not be available to another user of Central Valley surface or groundwater in the absence of the water conservation purchase; and (3) voluntary water purchases from existing Central Valley Project water contractors provided the water being purchased would have been consumptively used in the absence of the specific water purchase. Neither additional Central Valley Project water shall be made available for this purpose nor should any Central Valley Project conveyance capacity be made available for this purpose if that conveyance capacity is needed to convey water to existing Central Valley Project water contractors. Fifty percent of the cost of providing water to private refuges shall be paid by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(3).

(d) ADDITIONAL HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7) and utilizing the criteria in section 3404(e), the Central Valley Project Fish and Wildlife Task Force established in section 3406 of this title shall identify additional actions that would provide mitigation of Central Valley Project impacts on Central Valley fish and wildlife habitat and would protect, restore, and enhance Central Valley fish and wildlife habitat. The task force shall develop the information needed to evaluate these actions technically, determine the economic and biological feasibility using the criteria established in section 3404(e), determine appropriate cost allocations specific to each action, and select actions to recommend to Congress for authorization to implement. The task force shall make its first report to Congress no later than December 31, 1995, and shall report every five years thereafter, at a minimum, until the year 2010, when the task force shall cease to exist. Fish and wildlife habitat issues to be evaluated by the task force shall include, but not be limited, to the following:

(1) Determination of the flows and habitat restoration measures needed to protect, restore and enhance salmon and steelhead trout in the San Joaquin River below the confluence with the Merced River, Mokelumne River, and Calaveras River and in the Butte, Deer, Mill, and Battle Creeks, which are tributary to the Sacramento River, and development of feasible means of maintaining those flows and implementing the habitat restoration measures identified.

(2) Investigation of actions allowing closure or screening of the Delta Cross Channel and Georgiana Slough to prevent the diversion of outmigrating salmon and steelhead trout through those facilities.

(3) Investigation of the need to expand existing wildlife refuges and/or develop additional wildlife refuges in the Central Valley beyond what is included in the Refuge Water Supply Report. The task force shall also determine the water supply and delivery requirements, above level 4, necessary to permit full habitat development of existing wildlife refuges and determine feasible means of meeting that water supply requirement.

(4) Investigation of alternative means of improving the reliability of water supplies currently available to privately owned wetlands in the Central Valley.

(5) As a means of increasing survival of migrating young fish, investigation of the feasibility of using short pulses of increased water flows to move salmon, steelhead trout, and striped bass into and through the Sacramento-San Joaquin Delta.

(6) Investigation of ways to maintain suitable temperatures for young salmon survival in the lower Sacramento River and in the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent.

(7) Investigation of the need for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available or where hatchery production would enhance efforts to increase natural production of a particular species.

(8) Investigation of measures available to correct flow pattern problems in the Sacramento-San Joaquin Delta created by the operation of the Central Valley Project and the California State Water Project as well as San Francisco Bay inflow pattern changes caused by the operation of water development projects in the Central Valley.

(9) Evaluation of measures to avoid unquantified losses of juvenile anadromous fish due to unscreened or inadequately screened diversions on the Sacramento and San Joaquin Rivers, their tributaries, and in the Sacramento-San Joaquin Delta such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing nonfunctioning screens, and relocation of diversions to less fishery-sensitive areas.

(10) Elimination of barriers to upstream migration of salmon and steelhead trout adults to spawning areas downstream of existing storage facilities in the Central Valley caused by agriculture diversions and other obstructions reduce the natural production of these species as well as removal programs or programs for the construction of new fish ladder.

(e) SOCIAL, ECONOMIC AND BIOLOGICAL CONSIDERATIONS.—In fulfilling their responsibilities as specified in sections 3404(c) and 3404(d), the Secretary, the Central Valley Project Fish and Wildlife Advisory Committee, and the Central Valley Project Fish and Wildlife Task Force shall consider the following criteria and factors, and issue findings thereon, when determining which alternate programs, policies or procedures should be implemented to protect, restore and/or enhance fish and wildlife conditions. The alternative programs available to implement specific actions in sections 3404(c) and 3404(d) that best meets all of the following criteria shall be selected:

(1) Natural production alternatives shall be given priority over artificial production alternatives.

(2) Alternatives that have the highest biological probability of achieving the desired objective shall be preferred.

(3) Alternatives that provide a greater magnitude of potential benefits shall be given priority over alternatives which have a lesser magnitude of potential benefits.

(4) Alternatives that are determined to be the most cost effective, measured in economic terms considering impacts within the Central Valley Project service area's water and power resources and related industries.

(f) COST ALLOCATIONS.—The fiscal cost of implementing actions listed in section 3404(b) and selected pursuant to section 3404(c) shall be allocated as follows:

(1) Costs specified within sections 3404(b) and 3404(c) as allocated under this subsection shall be first allocated among Central Valley Project purposes, with reimbursable costs then allocated between Central Valley Project water and power contractors pursuant to applicable statutory and regulatory procedures and assessed pursuant to the provisions of section 3404(h) of this title.

(2) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 37.5 percent to the Central Valley Project, 37.5 percent as a nonreimbursable Federal expenditure, and 25 percent payable by the State of California. Central Valley Project costs shall be first allocated among Central Valley Project purposes with reimbursable costs, then allocated between Central Valley Project water and power contractors and assessed pursuant to the provisions of section 3404(h) of this title. Central Valley Project costs determined to be nonreimbursable shall be added to the nonreimbursable Federal expenditure.

(3) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall

be allocated 50 percent as a Federal nonreimbursable cost and 50 percent to the State of California.

(4) Costs associated with actions that are determined to be a Central Valley Project responsibility under sections 3404(f)(1) and 3404(f)(2) that pay for the replacement of existing Central Valley Project facilities that have not properly mitigated the effects of the Central Valley Project on the environment because of design errors by Federal agencies, shall be allocated as a Federal nonreimbursable cost.

(5) Central Valley Project power shall be used to supply the capacity and energy needs of actions identified in sections 3404(b) and 3404(c) where the costs or a portion of the costs have been allocated to the Central Valley Project as a reimbursable cost pursuant to subsections (1) and (2) of this section. The value of the Central Valley Project power, calculated as the cost of obtaining dependable power from other available sources, shall be credited against the Central Valley Project power contractors' share of the cost of actions that are mitigating the effects of the Central Valley Project and the effects of others on Central Valley fish and wildlife habitat as determined pursuant to section 3404(f)(2).

(6) Notwithstanding any other provisions of this title, the Secretary shall not undertake any action authorized herein unless the State of California makes appropriate commitments to participate in the actions identified in this title, provides relevant state approvals for identified actions, and agrees to participate in the cost sharing provisions of this title. Where local agency action or appoval is required within this title, the Secretary shall not proceed unless that local agency approval or participation is secured: Provided, however, That nothing herein is intended to require Central Valley Project water or power contractors' approval or participation as a condition on the Secretary's ability to proceed with the mandated actions.

(7) Notwithstanding any other provisions of this title, no actions authorized in this title shall be implemented unless such actions are consistent with State water law and will not constitute an unreasonable use of water as that term is used within article X, section 2, of the Constitution of the State of California.

(g) ADDITIONAL AUTHORITIES.—

(1) The Secretary is authorized to promulgate such regulations and enter into such agreements as may be necessary to implement the purposes and provisions of this title.

(2) In order to carry out the purposes and provisions of section 3404(c)(12), the Secretary is authorized, consistent with State law, to obtain water supplies from any source available to the Secretary: Provided, That such acquisition shall be pursuant to State law and any purchases shall be from willing sellers only. The Secretary, however, except as specifically provided herein, shall not diminish water supplies available to Central Valley Project contractors without compensation.

(3) The Secretary shall determine and implement the actions mandated by sections 3404(b) and 3404(c) in the most efficient and cost effective means available. Should the Secretary determine that the State of California or a local agency of the State of California is best able to implement an action authorized by this title, the Secretary shall negotiate with the State of California or a local agency of the State of California an agreement which would allow the State of California or a local agency of the State of California to undertake the identified action. In the event no such agreement can be negotiated, the Secretary shall proceed to implement the action through means available to him.

(4) The Secretary is hereby authorized and directed as an integral part of this title, to initiate studies of any and all facilities that would assist in fully meeting the fish and wildlife purposes of this title. The Secretary shall, for each facility identified, also study the feasibility of these facilities for other purposes, including, but not limited to, water and power supplies. Cost allocations for identified multiple purpose facilities should be in accordance with the allocation of water developed or conveyed or otherwise made available by those facilities.

(h) FUNDING.—

(1) AUTHORIZATON.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this title. Funds appropriated under this section are authorized to remain available until expended.

(2) CENTRAL VALLEY PROJECT WATER CONTRACTORS REPAYMENT.—The amount to be repaid by water contractors under sections 3404(f)(1) and 3404(f)(2) of this title shall be collected as follows:

(i) Notwithstanding the provisions of section 105 of Public Law 99-546, the amount to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall be capitalized for a period necessary to ensure repayment, consistent with the provisions of subsection 3404(h)(ii).

(ii) Annual payment of the capitalized costs to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall not exceed $1.00 an acre-foot for each acre-foot of water delivered under contract to such contractors.

(iii) The annual payments set forth in subsection 3404(h)(ii), together with interest thereon, shall be placed into a Central Valley Project Water Contractors Fund to be established by the Secretary. The first assessment shall be collected as part of water charges during the first water year which commences at least ninety days after enactment of this Act. The Central Valley Project Water Contractors Fund shall be utilized exclusively to repay costs of Central Valley Project water contractors incurred under sections 3404(f)(1) and 101(f)(2). The Secretary is authorized to use the funds within the Central Valley Project Water Contractors Fund, for these purposes, without further authorization, but subject to appropriation.

(iv) The provisions of this subsection 3404(h)(2)(i) shall apply only to Central Valley Project water delivered to Central Valley water contractors for water delivered under contract with the Bureau of Reclamation pursuant to which additional payments for such water are required.

(3) CENTRAL VALLEY PROJECT POWER CONTRACTORS REPAYMENT.—The amount to be repaid by Central Valley Project power contractors, pursuant to sections 3404(f)(1) and 3404(f)(2), shall be collected by the Secretary in accordance with existing law, policy, and practices for the repayment, by Central Valley Project power contractors, of operation and maintenance and capital costs allocated to those power contractors.

(4) COST SHARING.—The State of California and other parties identified in sections 3404(f)(2) and 3404(f)(3) shall pay an amount equal to the amount allocated within those sections each year. In addition to cost outlays or payments to the Treasury of the United States, the Secretary may consider as a financial contribution by the State of California, Central Valley Project contractors, or other parties identified in sections 3404(f)(2) and 3404(f)(3) the value of contributions of personal or real property or personnel which the Secretary determines is beneficial to the achievement of the objectives of this title. Such contributions may include the provisions of water or water conveyance capacity to meet the requirements of this title.

(5) REMAINING COSTS.—The remaining costs shall be considered nonreimbursable costs as a Federal contribution for preserving, protecting, restoring and enhancing fish and wildlife resources within the Central Valley of California.

SEC. 3405. ESTABLISHMENT OF THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—In order to carry out the purposes of section 3404 of this title, there is hereby established the Central Valley Project Fish and Wildlife Advisory Committee (hereinafter referred to as the "Committee").

(b) FUNCTIONS.—The Central Valley Project Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c). Such recommendations shall be strictly advisory in nature and shall not be binding on the Secretary.

(c) MEMBERSHIPS AND APPOINTMENTS.—The Central Valley Project Fish and Wildlife Advisory Committee shall be composed of the Secretary and the California Secretary of Resources and 21 additional members appointed jointly by them, as follows:

(1) A nonfishery representative of the Upper Sacramento River Fisheries Task Force.

(2) A representative of the California commercial salmon fishing industry.

(3) A representative of the California sports fishing interests.

(4) A representative of the California Department of Fish and Game.

(5) A representative of the California Department of Water Resources.

(6) A representative of the California State Water Resources Control Board.

(7) A representative of the United States Bureau of Reclamation.

(8) A representative of the United States Fish and Wildlife Service.

(9) A representative of the United States Bureau of Land Management.

(10) A representative of the United States National Marine Fisheries Service.

(11) A representative of the United States Army Corps of Engineers.

(12) A representative of the Western Area Power Administration.

(13) A representative of California wildlife interests.

(14) A representative of the Central Valley Project agriculture contractors.

(15) A representative of the Central Valley Project urban contractors.

(16) A representative of the State Water Project agriculture contractors.

(17) A representative of the State Water Project urban contractors.

(18) A representative of environmental interests in California.

(19) A representative of the Central Valley Project power users.

(20) A representative of agriculture who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(21) A representative of urban water users who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(d) TERMS AND VACANCIES.—

(1) The term of a member of the Committee shall be for the life of the Committee.

(2) Any vacancy on the Committee shall be filled through appointment jointly by the Secretary and the California Secretary of Resources.

(e) TRANSACTION OF BUSINESS.—

(1) CHAIRMEN.—The Committee shall be cochaired by the Secretary and the California Secretary of Resources.

(2) MEETINGS.—Except as provided in paragraph (3), the Committee shall meet at the call of the Chairmen or upon the request of a majority of its members.

(3) RECOMMENDATIONS OF THE COMMITTEE.—All recommendations of the Committee shall be through a two-thirds majority vote.

(f) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATION SUPPORT.—The Secretary, in cooperation with the State of California, shall provide the Committee with necessary administrative and technical support services.

(2) INFORMATION.—The Secretary, in cooperation with the State of California and to the extent practicable, shall furnish the members of the Committee with all information and other assistance relevant to the functions of the Committee.

(3) ORGANIZATION.—The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions under subsection (b). The Committee may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Committee member who is appointed to the Committee by reason of his employment as an officer or employee of the United States or the State of California shall cease to be a member of the Committee on the date on which that member ceases to be so employed.

(h) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Committee members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or the State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this paragraph.

(i) COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Committee and technical representatives who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(j) TERMINATION.—The Central Valley Project Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3406. ESTABLISHMENT OF CENTRAL VALLEY PROJECT FISH AND WILDLIFE TASK FORCE.

(a) ESTABLISHMENT.—The Secretary shall, within 30 days after enactment of this title, establish a Task Force to review, evaluate and make recommendations with respect to matters identified; and in the manner provided for in section 3404(d) of this title. A minority report may be submitted if consensus recommendations cannot be achieved on any matter studied or reported on by the Task Force.

(b) SELECTION OF TASK FORCE MEMBERS.—The Task Force shall be comprised of fifteen members. The Secretary shall select the members of the Task Force as follows:

(1) The Secretary shall include on the Task Force six members recommended by the Governor of the State of California.

(2) The Secretary shall include on the Task Force three members recommended by each of the following:

(i) Chairman of the Senate Committee on Energy and Natural Resources; and

(ii) Chairman of the House of Representatives Committee on Interior and Insular Affairs.

(3) The Secretary shall also include on the Task Force three members of his own selection.

(4) With respect to the recommendations and selections set forth in sections 3406(b)(1), 3406(b)(2) and 3406(b)(3), the Task Force shall be comprised of, but not limited to—

(i) members of the general public;

(ii) representatives of the Central Valley Project Water Contractors;

(iii) representatives of the State Water Project Contractors;

(iv) representatives of the Central Valley Project power contractors;

(v) representatives of other affected water and irrigation organizations and entities; and

(vi) representatives of fish and wildlife organizations.

(c) ORGANIZATION AND OPERATION OF THE TASK FORCE.—The Secretary shall appoint a Task Force Chairman who will set the dates of hearings, meetings, workshops and other official Task Force functions in carrying out the purposes of this title. The Secretary is authorized and directed to finance from funds available to the Secretary the reasonable costs and expenses of the Task Force and its members in carrying out the mandate of this section. This shall include all reasonable travel and related expenses. The Task Force shall dissolve on December 31, 2010.

SEC. 3407. PROVISIONS FOR TRANSFER OF CENTRAL VALLEY PROJECT WATER.

(a) TRANSFERS WITHIN THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements among Central Valley Project contractors and between Central Valley Project contractors and noncontractors involving Central Valley Project water within the authorized Central Valley Project service area.

(b) TRANSFERS WHICH RESULT IN NO NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfers agreements between Central Valley Project contractors and parties outside of the Central Valley Project service area upon the determination that as a result of the proposed transaction over the term of the transfer agreement there is no net export of water out of the Central Valley Project service area of the transferor.

(c) TRANSFERS WHICH RESULT IN A NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Except for transactions authorized under sections 3407(d) and 3407(e) and subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer between Central Valley Project water contractors and parties outside of the Central Valley Project service area where the Secretary determines that as a result of the proposed transaction over the term of transfer agreement there will be a net export of water out of the service area of the transferor, provided that the transfer meets the following conditions:

(1) The water being transferred would not otherwise be available to other consumptive beneficial uses absent implementation of the program; and

(2) Over the term of the agreement in question, the transfer will have no significant, long-term, adverse impact on groundwater conditions in the transferor's service area.

(d) TRANSFERS OF WATER DEVELOPED THROUGH TEMPORARY FALLOWING OR PERMANENT LAND FALLOWING.—Subject to the provisions of section 3407(f), the Secretary is authorized and directed to approve transfers of Central Valley Project water within or outside of the authorized Central Valley Project service area where the water to be transferred is available for transfer because of the implementation, by the transferor or landowner, of a temporary fallowing or permanent land fallowing program, including land retirement, provided that the involved Central Valley Project water contractor determines that the following conditions are satisfied:

(1) The program will have no significant long-term adverse impact on groundwater conditions.

(2) The water developed under the program shall be that water that would have been consumptively used on crops had those crops been produced during the year(s) of the transfer or water that would have otherwise been lost for beneficial use (i.e. wet water).

(3) No more than 80 percent of the water developed under such transfer shall be made available for export out of the transferor's service area with 10 percent distributed within the transferor's service area to assist in the protection of groundwater resources and 10 percent applied to fish and wildlife purposes within the Central Valley Project service area pursuant to a program approved by the Secretary.

(4) In order to avoid adverse third party impacts the total quantity of water exported under all such transfers by the transferor or landowner shall not exceed 20 percent of the total annual water supply delivered by the Central Valley Project that otherwise would have been available in any particular year for use within the service area of the transferor or 3,000 acre-feet, whichever is greater.

(5) The program will have no unreasonable impacts on water supply, operations or financial condition of the water contractor or its water users.

(e) TRANSFERS OUTSIDE OF THE CENTRAL VALLEY PROJECT SERVICE AREA DURING CERTAIN CRITICAL YEARS.—Notwithstanding the provisions of sections 3407(c) and 3407(d) and subject to the provisions of section 3407(f), the Secretary is authorized to approve both long-term and short-term contracts for the transfer of Central Valley Project water outside of the Central Valley Project service area during dry and critically dry years, as determined by the California Department of Water Resources, where the water is to be transferred to a water district or other public agency which the Secretary determines, in the absence of the transfer, would have been required, after the imposition of water conservation measures, to impose a twenty-five percent or greater deficiency on its customers.

(f) GENERAL PROVISIONS.—The following provisions shall also apply to any transfer:

(1) No program and/or agreements authorized under this title shall be approved unless the action is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon;

(2) No program and/or agreements authorized under this title shall be approved unless the proposed action is consistent with State law including, but not limited to, the provisions of the California Environmental Quality Act.

(3) All programs and/or agreements authorized under this title involving Central Valley Project water, shall be deemed a beneficial use of water by the transferor.

(4) All programs and/or agreements authorized under this title must include a Central Valley Project water contractor as a transferor and as a contracting party. The criteria established within section 3407(d) are intended to govern the exercise of a Central Valley Project water contractor's approval of a transfer proposed by a landowner within the service area of the Central Valley Project water contractor. The provisions of this title are only intended to govern the transfer of Central Valley Project water.

(5) Notwithstanding any contrary provisions contained within Central Valley Project water contracts, in implementing programs and/or agreements authorized under this title, there shall be no limitations on the use of agricultural water for municipal and industrial purposes or municipal and industrial water for agricultural purposes. All transferees of Central Valley Project water shall strictly comply with acreage and pricing requirements of reclamation law ap-

plicable to the actual use of Central Valley Project water by the transferee, rates for the applicable uses of water by the transferee shall apply to the transferee during the year or years of actual transfer and shall not be applied to the transferor.

(6) All agreements entered into pursuant to this title between Central Valley Project water contractor and entities outside of the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the agreement.

(7) Agreements entered into pursuant to this title shall not be considered as conferring new, supplemental or additional benefits, and shall not be otherwise subject to the provisions of section 203 of Public Law 97–293 (43 U.S.C. 390(cc)).

(8) No programs and/or agreements authorized under this title shall be approved unless the Secretary has determined that the action will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(g) THE ESTABLISHMENT OF CENTRAL VALLEY PROJECT WATER CONTRACT TRANSFER SECURITY AND CERTAINTY.—

(1) All existing and future contracts for Central Valley Project water shall be deemed to allow for the transfers and exchanges provided for within this section.

(2) In order to encourage and aid in the transfer and exchange of water, as provided for within this title, all Central Valley Project contractors who are parties to a long-term transfer or exchange contract shall be entitled to renew its water contract for, at a minimum, a term equal to the remaining term of the transfer or exchange agreement at the time that the underlying contract is to be renewed.

(3) All agreements entered into under sections 3407(b)–(e) of this title shall provide that, during the year(s) of actual transfer, Central Valley Project water subject to transfer shall be repaid at "full cost" as that term is defined at 43 U.S.C. 390(bb).

SEC. 3408. AGRICULTURAL WATER CONSERVATION FEASIBILITY STUDIES.

(a) GENERAL.—The objective of this section is to encourage implementation of financially feasible water conservation practices. Water conservation practices include those practices which make water available that would not otherwise have been available to Central Valley streams or which do not worsen groundwater conditions. Water conservation, for the purposes of this title, does not include land fallowing.

(b) WATER CONSERVATION FEASIBILITY STUDIES.—All existing Central Valley Project agricultural contractors shall submit a report to the Secretary which identifies water conservation practices within two years after enactment of this Act. For such practices identified, the report shall analyze the cost and benefits to that entity and its customers of implementing each of the water conservation practices listed in this section, to the extent they apply to that entity, and any additional practices the Secretary determines should be analyzed.

(1) Water management:

(i) monitoring water supplies, deliveries and accounting;

(ii) providing farmers with crop evapotranspiration information; and providing scheduling procedures for ordering water which correspond with demand for irrigation water to the extent practical;

(iii) monitoring of surface water qualities and quantities;

(iv) monitoring of groundwater elevations and quality; and

(v) monitoring of quantity and quality of drainage waters within facilities the district owns or controls.

(2) District facility improvements:

(i) improving the maintenance or upgrading of water measuring devices;

(ii) automating canal structures;

(iii) lining or piping ditches and canals;

(iv) modifying distribution facilities to increase water delivery flexibility;

(v) constructing or lining regulatory reservoirs;

(vi) developing recharge basins, implementing in lieu recharge programs or other means of recharging groundwater basins when adequate supplies are available; and

(vii) evaluating and improving pump efficiencies of district pumping facilities.

(3) District institutional adjustments:

(i) improving communications and cooperation among districts, farmers and other agencies;

(ii) adjusting the water fee structure to provide incentives for efficient use of water and to reduce drainage discharges;

(iii) increasing flexibility in the ordering and timing of deliveries to meet crop demands; and

(iv) increasing conjunctive use of groundwater and surface water.

(4) District water user water management programs:

(i) assisting the facilitation of the financing of physical improvements for district and on-farm irrigation systems;

(ii) providing educational seminars for staff and farmers; and conducting public information programs, which seminars and programs shall address the following subjects, to the extent applicable to the area; and

(A) improving existing on-farm and district-wide irrigation efficiency;

(B) monitoring of soil moisture and salinity;

(C) promoting of efficient pre-irrigation techniques;

(D) promoting of on-farm irrigation system evaluations;

(E) constructing tail-water deliveries;

(F) improving on-farm irrigation and drainage systems; and

(G) evaluating and improving water user pump efficiencies.

(iii) providing water users with crop evapotranspiration data and information.

(c) BENEFITS AND COSTS.—The benefits and costs of implementation of specific water conservation practices shall be evaluated through analysis of, but not limited to, the impact on the following:

(1) water usage;

(2) electrical energy usage;

(3) labor and equipment required, including costs of training personnel;

(4) crop yields;

(5) reduction of increase in drainage related problems;

(6) fish and wildlife habitat conditions;

(7) costs of construction;

(8) costs of operation and maintenance;

(9) costs of water information programs; and

(10) costs of computer equipment and software.

SEC. 3409. IMPLEMENTATION.

(a) AGRICULTURAL CONTRACT WATER CONSERVATION REQUIREMENTS.—All Central Valley Project agricultural contractors shall develop a plan for implementation of water conservation practices determined by the entity within the water conservation report required under section 3408 of this title to be financially and otherwise feasible for the specific entity. The entity shall complete the plan for implementation within one year after completion of the report required in section 3408. Financially feasible conservation practices which will cause environmental harm, including, but not limited to, adversely affecting groundwater conditions, or are inconsistent with other requirements of law, shall not be required to be implemented.

(b) ON-FARM WATER CONSERVATION INCENTIVE PROGRAM.—There is hereby established a Water Conservation Incentive Program, which shall be administered by the Secretary to encourage and assist with the on-farm implementation of the water conservation practices set forth in section 3408(b)(4). Said program shall be a Guarantee Loan Program, and the Secretary may enter into a Memorandum of Understanding with the Secretary of Agriculture to administer such program in conjunction with other programs offered through the United States Department of Agriculture.

(c) MUNICIPAL AND INDUSTRIAL CONTRACT WATER CONSERVATION REQUIREMENTS.—The Secretary shall require all Central Valley Project municipal and industrial water users, to the extent they provide retail, municipal and industrial water service, to comply with the provisions of the September 19, 1991, Memorandum of Understanding regarding Urban Water Conservation in California.

(d) SECRETARIAL REVIEW.—The Secretary shall evaluate the benefits and cost analysis for each of the water conservation practices found by the specific water user preparing the water conservation reports required by section 3408 of this title to be not feasible and determine the following:

(1) Which water conservation practices, if implemented, would make additional water available to Central Valley streams or to a usable groundwater basin that would not otherwise be available in the absence of implementation of the water conservation practice.

(2) For each water conservation practice identified in section 3409(d)(1), the benefit/cost ratio of implementing that water conservation practice if that water were used to fulfill wildlife refuge water supply obligations established by this title; or made available to other water agencies through the transfer provisions established by this title.

(e) WATER CONSERVATION PRACTICES.—The Secretary may implement those water conservation practices identified which conserve water, are economically feasible, and which the Secretary determines are prudent, through implementation of the identified water conservation practice with the entity holding the contractual right to the water conserved and then making that water available for use by Central Valley refuges as required by provisions of this title, provided that an agreement is entered into between the entity and Secretary that insures the entity and its water users are not damaged by such measures, including, but not limited to, increasing cost to the entity or its water users or interferes with the ability of the entity water users to produce crops.

The Secretary shall fund the implementation of a specific water conservation practice in exchange for the use of the saved water. If the Secretary determines that purchasing water for the Central Valley refuges by implementing specific water conservation practices found to meet the requirements of section 3409(d)(1) is not feasible, the Secretary shall make that water available to other California water agencies by negotiating and executing agreements between the United States, the entity holding the Central Valley Project contractual right to the saved water, and entities interested in obtaining the conserved water in exchange for funding the implementation of the water conservation practice.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act."

SEC. 3502. DEFINITIONS.

As used in this title, the term—

(1) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreeement between the Tribes and the United States;

(2) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(3) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS: DECLARATIONS.

(a) FINDINGS.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of 156,000 acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, 56,000 acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the United States Government did not justly compensate such Tribes when it acquired those lands.

(b) DECLARATIONS.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of 156,000 acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3504(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over 56,000 acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(a) THREE AFFILIATED TRIBES ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (herinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1993 and each of the next following nine fiscal years, the sum of $6,000,000.

(4) Only the interest received on moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(b) STANDING ROCK SIOUX TRIBE ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) Only the interest on the moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(c) LIMITATION.—During fiscal years 1993, 1994, and 1995, the interest described in subsections (a)(4) and (b)(3) shall not exceed the savings generated by the bill.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) IRRIGATION.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a 2,380 acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) SPECIFIC.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) DISCLAIMER.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation 1,860 feet mean sea level.

(b) FOUR BEARS AREA.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation 1,854 feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, Range 93 West of the 5th principal meridian, McKenzie County, North Dakota:

Section 15: South half of the southwest quarter;

Section 21: Northeast quarter and northwest quarter of the southeast quarter;

Section 22: North half of the northwest quarter; and

(2) approximately 45.80 acres, more or less, situated in the east half of the southwest quarter and the east half of the west half of the southwest quarter of section 15, lying at or above contour elevation 1,854 mean sea level, located north of the northerly right-of-way line of North Dakota State Highway No. 23 and southeasterly of the following described line:

Commencing at a point on the west line of said section 15, said point being 528.00 feet northerly of the existing northerly right-of-way line of North Dakota State Highway No. 23; thence north 77 00′ 00″ east to the west line of said east half of the west half of the southwest quarter of section 15, and the point of beginning of such line; thence northeasterly to the northwest corner of the east half of the southwest quarter and the point of termination.

(c) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation 1,860 feet mean sea level.

(d) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title,

offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of the Three Affiliated Tribes, described in subsection (b), and in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, and option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) 30 days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) 1 year from such notification to complete the purchase of such lands under their right of first refusal.

(e) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations 1,860 feet mean sea level (for subsections (a) and (c)) and 1,854 feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(f) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and natural obstructions which, in the opinon of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) PROHIBITIONS.—With respect to any lands described in this section that are below 1,860 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) EXCAVATION.—With respect to lands described in subsections (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) TRUST LANDS.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915)—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County, North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(b) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual Indian owners by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and from non-Indian owners (either by purchase or condemnation), and—

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value any land, in the case of the Standing Rock Sioux Tribe, described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) 30 days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) 1 year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation 1,620 feet mean sea level by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, submerge, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below 1,620 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates, North Dakota, and the recreation facilities located at the Fort Yates Recreation Area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation 1,620 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of En-

gineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE.—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation of such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89-108 is amended by striking "$67,910,000" and inserting "$7,910,000."

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

SEC. 3601. DEFINITIONS.

(1) The term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota; and

(2) The term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3602. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefore the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3603. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3602.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

Notwithstanding any other provisions of law, the Secretary of the Interior and the Secretary of Veteran Affairs are authorized to enter into a contract to provide for the delivery in perpetuity of water from the Central Valley Project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin National Cemetery, California.

AMENDMENT NO. 1786

(Purpose: to amend H.R. 429)

Mr. CRANSTON. Mr. President, on behalf of Senators JOHNSTON, SEYMOUR, and myself, I send an amendment to the desk with respect to the Sonoma Baylands wetland demonstration project.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], [for Mr. JOHNSTON, for himself Mr. SEYMOUR, and Mr. CRANSTON] proposes an amendment numbered 1786.

Mr. CRANSTON. 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:

TITLE —SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

SEC. . SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENTS.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of onsite improvements, shall be completed within 10 months of the date of the enactment of this Act.

(c) THIRD PHASE.—The Third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

Mr. SEYMOUR. Mr. President, today I rise to propose an amendment to H.R. 429 which will facilitate dredging in the San Francisco Bay. The amendment would allow for upland disposal of dredge through the creation of a demonstration project for the restoration of wetlands at Sonoma Baylands.

The Port of Oakland has two main terminals which are capable of accepting new deep draft vessels. These two terminals, the American President Line terminal and the Charles P. Howard terminal, though, cannot be fully utilized because of the shallow nature of Oakland's inner harbor.

The inability of Oakland to accept fully loaded deep draft vessels has stunted the ports growth. In the last 10 years, the port of Oakland's market share has decreased from almost 26 percent to under 17. This falloff is directly related to the ports failure to deepen its shipping channels.

In order for the Port of Oakland to accommodate deep draft vessels, the Federal channels in the inner harbor must be deepened to 42 feet. Currently, there is insufficient capacity at in-bay dredge disposal sites to accommodate the dredge from both the harbor's required maintenance dredging and dredge from the 42-foot project.

Without adequate dredge disposal sites, dredging cannot go forward. The Sonoma baylands wetlands mitigation project would create an ideal uplands dredge disposal site for the 42-foot project.

Currently, the Army Corps, in conjunction with the EPA, is conducting a $16 million study of long-term solutions to the problem of dredge disposal. The study, which is slated for completion in 1994, will outline options for dramatically reducing and hopefully eliminating in-bay disposal of dredge. While I fully support the long-term management study [LTMS] process, I believe it is imperative to begin deepening Oakland shipping channels before the recommendations from the LTMS process are finalized.

For almost a year now, I have been aggressively working to ensure the ports of San Francisco and Oakland remain open to large vessel traffic. When I first got involved in the dredging issue, it appeared that most maintenance dredging would be halted at the two ports. The holdup seemed to stem from a bureaucratic web that involved the Army Corps, the Environmental Protection Agency [EPA], and the National Marine Fisheries Service [NMFS].

At the time I became involved in the issue, each of these agencies was working diligently on its own piece. The corps was busy assessing how much maintenance dredging would be required to keep the Ports of Oakland and San Francisco operational. NMFS was studying the migration and habitat needs of the winter run chinook salmon. EPA was assessing upland and off-shore disposal sites. Unfortunately, no one was working to ensure these pieces would fit together. The result was stalemate: no solutions, no permits, no dredging, and sadly, the potential loss of up to a 100,000 jobs and a $4.5 billion industry for the bay area.

I found it unconscionable that a multibillion dollar industry in the State of California would be put at risk because Federal bureaucracies could not seem to communicate and work with each other to solve problems. I vowed not to let that happen.

Since last July, my staff and I have been meeting on a monthly and sometimes weekly basis with all the pertinent Federal agencies. As a result these agencies are placing greater emphasis on keeping the Ports of Oakland and San Francisco vital.

This new emphasis has yielded results. In the Port of San Francisco, the dredging on pier 27, pier 29, pier 94, pier 96, pier 80—approach, pier 80—Islais Creek, and the Berkeley Marina has been permitted. The Port of Oakland, the Chevron oil transfer facility, and the Guadalupe Slough have also gotten permission to go forward with need maintenance dredging projects.

Additionally, the Army Corps announced last week that it will be holding public hearings on its proposal to deepen Oakland's inner harbor from 35 feet to 38 feet. The 38-foot level is an intermediate step, and I am hopeful that with the passage of this amendment, the Port of Oakland will be able to achieve its ultimate goal of 42-feet.

Mr. President, I would like to thank Senator JOHNSTON for his strong support of this effort. He has always been a good friend to the bay area, and I commend him on his leadership on this issue.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1786) was agreed to.

Mr. JOHNSTON. Mr. President, I am pleased that the Senate is considering H.R. 492, the Reclamation Projects Authorization and Adjustment Act of 1992, as amended by the Committee on Energy and Natural Resources.

This 37-title bill contains measures of direct importance to my colleagues on both sides of the aisle from Arizona,

California, Colorado, Kansas, New Mexico, Texas, Wyoming, Montana, Washington, Oregon, North Dakota, South Dakota, Utah, and Oklahoma.

H.R. 429, as amended by the committee, addresses a wide variety of water resource problems and opportunities—everything from rural drinking water supplies to fish and wildlife habitat restoration. The bill does contain certain traditional water development features, but it is most notable for reflecting a serious commitment to protection and restoration of environmental values. Simply put, this bill would move the Nation a meaningful step forward toward payment of the reclamation program's debt to the environment.

My colleague from Utah, Senator GARN, deserves special acknowledgment for having overseen difficult negotiations involving Utah's environmental community, irrigators, urban water users, and other interests that, after many months, produced agreement on the final configuration of the central Utah project. Senator GARN'S hard work produced a real success story for Utah, and a model for bringing contemporary values to water projects elsewhere.

Mr. President, this is not a perfect bill. In particular, title XXXIV, which deals with the Central Valley project in California, is deeply flawed. I agreed to inclusion of this measure in H.R. 429 solely in order to move forward in the essential process of reforming the CVP. Neither California nor the United States have any real choice but to act promptly to make that project more responsible to the taxpayer and to the environment.

Nevertheless, Mr. President, I do feel strongly that this bill merits the Senate's approval now so that we have time to convene and complete a conference with the other Chamber. I am hopeful that, through the conference, we will retain this bill's best features while eliminating its shortcomings. In this regard, let me be clear that I would find it very difficult to support an agreement in conference that does not ensure meaningful reform of the Central Valley project or that broadens the opportunities for abuse of the reclamation program's subsidy limitations.

In addition, Mr. President, I want to inform my colleagues that the bill as passed by the Committee on Energy and Natural Resources has been amended. The amendment, which I cosponsored along with my two distinguished colleagues from California, authorizes the U.S. Army Corps of Engineers to conduct a Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta Estuary, CA.

As you may know, the bay area has faced very serious problems with the availability of dredge disposal options for new work construction projects at the ports bordering San Francisco Bay. This predicament has resulted in several large ships running aground in the bay and has stalled new work projects scheduled for completion; $5.4 billion in economic activity is generated by navigation-dependent activities which include jobs, sales and revenues associated with the deep draft shipping industry, U.S. Navy, recreational boating, commercial and recreational fishing, passenger boats, ship repair, and government maritime services. Without channel maintenance, the bay area could expect to lose $4.4 billion annually of deep draft cargo economic activity; $500 million annually of U.S. Navy payroll and thousands of jobs in the shipping industry and government maritime services.

On average, between 7 and 8 million cubic yards of material are dredged annually for both Federal and private interests in the bay area. Over the next 50 years, it is projected that almost one-half million cubic yards will need to be dredged from San Francisco Bay. Almost half of this amount will be for routine maintenance by the Corps of Engineers. Meanwhile, the number of in-bay disposal sites has decreased from 11 in the early 1970's to 4 today. The Alcatraz disposal site, the most widely used depository, has been affected by an accumulation of material which has resulted in mounding requiring strict annual limits on the amount of material that can be deposited at the site.

In addition to this problem, the National Marine Fisheries Service has listed the winter run chinook salmon as "threatened," causing further restrictions on dredge disposal at the Alcatraz site. A decision is expected this June on whether or not to list the salmon species as endangered rather than threatened.

Completion of the multiagency long term management strategy in 1994 will provide the bay area with a much-needed plan for dredging activities well into the next century, and is expected to alleviate many of the current economic and environmental concerns related to those activities. In the interim, this amendment would authorize the Corps of Engineers to move forward with a demonstration project for wetlands restoration at Sonoma Baylands. Development of this site is a priority for the bay area because of the environmental importance of recycling suitable dredge material for beneficial reuse, and because of its economic importance for continuing commerce in that community.

Sonoma Baylands comprises 322 acres of land that could be restored to tidal salt marsh habitat. Near the turn of the century, this land was diked from tidal action and converted for agricultural use. Similar practices around San Francisco Bay have resulted in a severe reduction of tidal marsh land. Because of the importance of tidal marshes to the ecosystem of San Francisco Bay, and because of increased dredging activities, wetlands restoration is a priority for northern California.

I hope my colleagues will join with me in supporting passage of this bill.

Mr. BRADLEY. Mr. President, the decision by the Committee on Energy and Natural Resources to include the text of Senator SEYMOUR's bill on the Central Valley project, S. 2016, as title XXXIV of the committee's substitute amendment to H.R. 429 does not mean that the committee or any of its members support the bill. To be quite sure, I do not support Senator SEYMOUR's bill. The inclusion of S. 2016 here does move the process of CVP reform one step forward, but all Members need to be aware that enactment of the legislation in its present form would represent a severe and unwarranted setback for the State of California. I expect a very different measure to emerge from negotiations with the House of Representatives.

To begin, title XXXIV fails to remove Federal impediments to transfers of CVP water. The bill merely substitutes one set of meddlesome Federal rules for another, leaving the State of California with no authority to permit or administer transfers from the CVP.

Mr. President, this is a classic case of Federal interference in State affairs. I do not want to tie Governor Wilson's hands, and cannot understand why anyone would think doing so is a good idea for the State. Senator SEYMOUR has pointed out that the water transfer language in S. 2016 was negotiated between the Metropolitan Water District of southern California and the CVP growers and argues from that fact that the Congress should approve it. While I have no objection to the Metropolitan Water District or any other urban water agency gaining access to CVP water, the fact that the water transfer language was worked out between just two entities argues very strongly against congressional approval. Why should Congress ratify a deal negotiated behind doors closed to all the other water interests in the State?

A particularly troubling element of the water transfer language in title XXXIV is that it gives the irrigation districts complete authority to veto water transfers by individual farmers. Those districts are powerful bureaucracies that have fought water transfers for decades because they fear losing power. If transfers are good for the State, as almost everyone has come to agree, why should Congress permanently empower a handful of local bureaucrats to stop transfers whenever they like?

Easily the worst feature of the bill's water transfer language is a provision that would give CVP farmers a permanent right to their present water supply in exchange for making a perma-

nent transfer of even a tiny part of their water supply to an urban customer. Imagine that you are a corporate farmer growing subsidized cotton on 10,000 acres in the San Joaquin Valley, and your original 40-year water contract with the Bureau of Reclamation is about to expire. You know that Congress and even the State of California are thinking about rewriting the terms for using CVP water. Would you wait to renew your contract on terms that reduce subsidies and require some consideration of the environment, or would you immediately offer 1 percent of your water to a developer in southern California forever at no cost, knowing that, under title XXXIV you could keep the remaining 99 percent forever with no change in terms?

Mr. President, title XXXIV fails to reform CVP irrigation subsidies. The project's far below-market water prices give CVP growers no incentive to use water efficiently or grow low water-use crops.

The CVP's water rates reflect a 95-percent taxpayer subsidy to some of the Nation's wealthiest farmers. The present worth of the CVP's capital construction cost is about $3.766 billion. The expected present worth of project repayment is about $203 million, or approximately 5 percent of CVP construction costs; that is, about $3.56 billion of construction costs will be a Federal subsidy. This expected repayment will return only about 13–16 percent of the costs normally repayable under reclamation law. The increased subsidy in the project has resulted from administrative practices such as fixed-rate contracts that provide subsidies over and above those embodied in general reclamation law. These practices will defer about 75 percent of capital repayment until after 2010, some 60 years beyond the date that project repayment began.[1] Although the Bureau of Reclamation has no authority to defer operations and maintenance payments, the effect of the fixed-rate contracts has been to defer O&M payment, as well.

Since the CVP began delivering water in the 1940's CVP growers have produced crops worth over $47 billion. In 1989 alone, CVP growers reaped over $3.5 billion in gross crop values, while repaying the United States only $29.3 million—$2.2 million less than it cost the Bureau of Reclamation to run the project that year.

Prices charged for CVP water used for irrigation are considerably lower than the Bureau of Reclamation's cost to develop and deliver the water. The following chart, developed with information supplied by the Bureau of Reclamation, compares what CVP contractors—usually irrigation districts—pay for CVP water—the subsidized wholesale rate—with what the growers in those irrigation districts pay for the water—the subsidized retail rate—with the unsubsidized wholesale price for the water and, finally, the growers' ability to pay for the water:

Region	Subsidized wholesale rate	Subsidized retail rate	Unsubsidized wholesale rate	Growers' ability to pay
Sacramento Valley	$2.75 to $12/AF	$7 to $15/AF	$25 to $60/AF	$8 to $25/AF.
San Joaquin Valley/Friant Unit	$3.50 to $16/AF	$15 to $24/AF	$30 to $40/AF	$70/AF.
San Joaquin Valley/San Luis Unit	$8 to $16/AF	$28/AF	$35 to $45/AF	$70/AF.

The "value" of the subsidized water rate can best be seen by taking a specific example, for instance, the Westlands Water District, served by the CVP's San Luis Unit. The district has contracted to buy 900,000 acre-feet of CVP water each year at the subsidized price of $12/acre-foot. Westlands sells that water to Westlands growers for an average price of $29/acre-foot. The unsubsidized price for CVP water sold to Westlands would be $45.79/acre-foot, $33.79/acre-foot more than the district's current subsidized rate. If Westlands were obliged to pay the unsubsidized price for its water, the price paid by individual growers would, presumably, rise from $29/acre-foot to $62.79/acre-foot, still well under the $70/acre-foot price which, according to the Bureau of Reclamation, Westlands growers can afford to pay. At current prices, Westlands pays the Bureau of Reclamation $10,800,000 each year for its water ($12.00900,000=$10,800,000). If Westlands paid the unsubsidized rate, revenues to the Bureau would rise by about $30,000,000 each year ($45.79900,000=$41,211,000). If Westlands growers were charged for their water at a rate that matches their ability to pay, revenues to the Bureau would rise by $52,000,000 each year ($70.00900,000=$63,000,000).

By way of comparison, the wholesale rate charged for water sold by California's State water project for irrigation in the San Joaquin Valley ranges from $50 to $100/acre-foot. Irrigators served by the Metropolitan Water District in southern California pay between $200 to $400/acre-foot for their water. According to the U.S. Department of Commerce, the statewide average charge for irrigation water is $72/acre-foot.

Mr. President, the following chart, based on California Department of Fish and Game information, compares pre-Central Valley project levels of Central Valley salmon runs with recent year returns:

Drainage	Pre-CVP (all races of salmon)	Recent years
Sacramento River	600,000 to 1,000,000 adults.	150,000 total (1976–1990 avg.) Fall fun chinook—50 percent decline in last 15 years. Spring run chinook—probably extinct. Late fall chinook—70 percent decline in last 15 years. Winter run chinook—99 percent decline since 1960's; near extinction.
San Joaquin	150,000 to 300,000 adults.	11,000 to 32,000 (1980–89). Spring run-extinct.

As the committee report recognizes, mitigation for CVP impacts has not occurred or, when attempted, has relied on physical structures which have been only occasionally effective. The California Department of Fish and Game and the U.S. Fish and Wildlife Service both have called for replacement or improvement of existing physical structures along with changed flow and diversion patterns. According to the U.S. Fish and Wildlife Service:

"With regard to the anadromous fishery [CVP] mitigation provided to date consists of three hatcheries in need of rehabilitation, an unsuccessful spawing channel, a fish trap and some screening. The hatcheries were intended to mitigate for impacts associated with blockage by dams to upstream spawing areas. The spawing channel has been ineffective and will be abandoned. The screens at the Tehama-Colusa Canal headworks have teen upgraded. Other project screens and the Keswick fish trap are only partially effective and their inefficiency is a major problem to anadromous fish runs.

"The fishways at Red Bluff Diversion Dam are ineffective and in need of modification. The dam itself has caused predation conditions that significantly impact survival of downstream migrating juvenile salmonids.

"There have been minimum flow releases for fishery purposes established below all CVP impoundments except Friant. With the possible exception of Trinity River releases, none are adequate to maintain fish populations. Provision of adequate instream flows and temperatures below project reservoirs is probably the most important of all project compensation needs.

The U.S. Fish and Wildlife Service provided the Committee with a list of fishery mitigation needs, including:

About 2 million acre-feet of water to satisfy instream flow needs in all years. This would not be a consumptive use, but releases that could be put to other beneficial uses.

Rehabilitation of the three Central Valley Project hatcheries * * * and funds for operation and maintenance * * *.

Multi-level outlet structures at project reservoirs * * *.

Operational changes to insure an adequate supply of cool water when needed for downstream fishery purposes.

Gravel replenishment * * *.

[1] R. Wahl, "Markets for Federal Water: Subsidies, Property Rights, and the Bureau of Reclamation" (1989).

Major modifications at Red Bluff Diversion Dam * * *.

Alternative mitigation for the impacts of Red Bluff Diversion Dam.

Improvement of Delta facilities (screens) and operations, including perhaps pumping curtailments at critical periods.

According to the California Department of Fish and Game:

Successful downstream migration of salmonid smolts is critical for the restoration of stocks of salmon and steelhead. The flows must be sufficient to carry the fish past all major diversions * * *. Ultimately both State and Federal projects should be modified to utilize a common intake or intakes with fish screens and sufficient bypass flows. The current trapping and trucking practice at the Delta pumps, as at some other diversions, should only be considered a stopgap or supplemental measure. * * * Increased flows, pumping curtailment, adequate screens, and appropriate operating criteria are the solutions * * *. (CDFG, "Central Valley Salmon and Steelhead Restoration and Enhancement Plan," April 1990).

The bill fails to provide the water needed to restore California's fish and waterfowl populations damaged by the CVP's operations. Although the bill purports to authorize water for wildlife refuges and, in limited instances, for fish, the fine print makes it clear that no water could be used for environmental purposes without the approval of the growers and without first meeting all of the growers' demands. The bill's offer of water is a cynical, empty gesture.

The bill fails to provide any but the smallest fraction of the money needed to fix fish and wildlife problems. It authorizes almost $400 million worth of various techno-fixes like fish ladders and hatcheries, but would raise only $5-7 million a year to build them. Are the fish really supposed to wait a century for a fish ladder? Again, the bill's offer of mitigation measures is a cynical, empty gesture.

The bill's failure to help protect and restore fish and wildlife is, in the end, a failure to correct the CVP's bias against California's fishermen and fishery dependent businesses and communities. It also reflects a failure to recognize the plight of the Bay area ports which have had to shut down their dredging operations in order to avoid harm to the salmon populations so badly damaged by the CVP. The Port of San Francisco and the Port of Oakland are not responsible for pushing the salmon to the brink of extinction, the CVP is, but you would not know that from reading this bill. The bill gives the CVP no clear direction to serve these legitimate northern California interests along with Central Valley growers. I cannot imagine what good would be achieved by turning our collective back on these Californians.

Mr. President, the bill fails to recognize the merit of transferring ownership of the CVP to the State of California. The growers have done very well for themselves while they have been able to milk the Federal taxpayer for billions in subsidies. It is no surprise that the bill they wrote tries to hide from the prospect of State ownership and management of the CVP.

Finally, Mr. President, Members should reflect on the future California faces if this bill becomes law and no genuine CVP reform is achieved.

The Bureau of Reclamation and CVP agribusiness will continue to sit on 20 percent of the State's water supply and run it for their own interests. Water-short communities and businesses throughout the State will be left with no choice but to beg for water from the irrigation districts which S. 2016 gave a Governor-proof veto right over water transfers. The Nation's biggest corporate farmers already made rich by delivery of subsidized water, will make even richer by being empowered to dictate terms for sale of their taxpayer funded water to water-starved cities and industries.

Windfall rich CVP corporate farmers will continue to use their economic power to force small family farms out of business, while continuing to take the subsidized water originally intended for those same small farms.

California cities, unable to secure ready access to new water through voluntary transfers, will be left with no obvious choice but to spend billions of dollars on energy-intensive, polluting, and expensive desalination plants and to lobby for the Peripheral Canal, Auburn Dam, and diversion of wild north coast rivers. Southern California will intensify its efforts to boost its take of Colorado River water, threatening to upset the Colorado River compact.

During the next drought, urban residents and growers outside the CVP who pay hundreds of dollars for every acre-foot of water they use, will watch gardens and crops die, while just over hill or down the road in the Central Valley, hundreds of thousands of acres of taxpayer subsidized cotton and rice will flourish in the desert.

Numerous species will become extinct, not the least of which will be California's fishermen. The demise of the fishing industry will be followed by severe economic hardship and dislocation in northern California coastal communities.

The Central Valley will be dotted with thousands of acres of agricultural drainage ponds, each one of which will be a mini-Kesterson, laden with toxic farm runoff and ringed with the carcasses of dead waterfowl.

Federal courts or State courts or both will soon be running the CVP and every other water project that takes water from Central Valley rivers, including California's own water project, and the local water projects serving San Francisco and Oakland.

The Ports of San Francisco and Oakland will lose significant parts of their shipping business and thousands of jobs to other ports without dredging restrictions.

Years from now, the Governor will still be negotiating for transfer of the CVP to the State, with the growers still refusing to pay for their water or to clean up after the project.

Global trading partners will point to the CVP as a gross example of United States protectionism in order to justify their own restraints on American imports.

Members should be aware that, when faced with the decision to support enactment of title XXXIV, or real CVP reform, they are, in fact, faced with nothing less than the decision whether the next generation of Californians will see the State's water shared fairly, or whether California's economy and environment will be sacrificed to the demands of a selfish few.

Mr. CRANSTON. I would like to ask the chairman of the Water and Power Subcommittee about section 1913 of H.R. 429, the Reclamation Projects Authorization and Adjustment Act, which authorizes the Los Angeles reclamation and reuse project. It's my understanding that the purpose of this provision is to authorize the Secretary of the Interior to participate with the city and county of Los Angeles and the West Basin Municipal Water District in the design, planning and construction of at least two water reclamation and reuse projects to treat approximately 120,000 acre feet of effluent annually. It's also my understanding that the purpose of treating the water is to provide new water supplies in southern California for industrial, environmental and other beneficial uses. This would reduce the need for imported water from northern California, the Colorado River, and the Owens Valley and reduce the sewage effluent discharged into Santa Monica Bay. Is my understanding correct?

Mr. BRADLEY. The Senator from California is correct. The committee recognizes that there are limited opportunities to develop new water sources in the State of California. However, existing technology is capable of treating effluent for reuse.

This has the practical effect of stretching existing water supplies. It is the committee's expectation that approximately 120,000 acre feet of effluent will be treated and available for reuse by the provisions in section 1913. The committee also is fully aware that the projects will have the added benefit of permitting the city of Los Angeles to resolve some of its own water needs internally within its own basin. Santa Monica Bay will benefit since sewage effluent discharges will be reduced. The committee also considers the projects as a source of replacement water for Mono Lake where diversions have been restricted by recent court decisions.

Mr. CRANSTON. I thank the Senator for the clarification.

Mr. GARN. Mr. President, I rise today to speak on behalf of H.R. 429, a major portion of which contains authority to complete the central Utah project [CUP]. For me, passage of this bill represents the culmination of 25 years of work. I first heard of the CUP when I became Salt Lake City's water commissioner in 1967. After becoming mayor in 1971, I retained my position as a water commissioner and continued to work on the project. But, my real dive into this project came when I was elected to the Senate in 1974. After coming to Washington, I became responsible to obtain the yearly appropriation for the project. With that in mind I jumped from the Armed Services Committee in 1978 to the Appropriations Committee where I have been ever since.

The CUP was originally scheduled to be completed by 1972. But like the Federal Interstate Highway System and for myriad reasons, 1972 came and went and expensive construction delays occurred. By the mid 1980's, I made a disappointing but, inevitable discovery. Successive years of slow construction meant the day would come when construction on the project would stop unless my colleagues and I from Utah could persuade the Congress to raise the authorization ceiling one more time. So, my focus necessarily had to shift to a dual one, obtaining the annual CUP appropriation and negotiating a new authorization ceiling in order to be able to complete the project.

Mr. President, the Utah delegation has successfully negotiated a reauthorization bill for the CUP which is encompassed in titles II through V of H.R. 429. As a matter of fact, we finished negotiating the CUP provisions in August of 1990, and have been waiting for this day ever since. To understate the obvious, I am very grateful that we have reached this point today.

By way of explanation, this bill raises the authorization ceiling for the Colorado River storage project from $2.1 billion to nearly $3 billion. The bill will provide for the delivery or municipal and industrial water for the nearly 1 million people who reside in Salt Lake and Utah counties and it creates a water supply for an additional 400,000 people. It also provides for the construction of a reliable supplemental irrigation system for which the people of rural central Utah have waited since 1956. It provides several innovative conservation and environmental mitigation programs which were arduously negotiated with conservationists. Finally, the bill makes good on a commitment the State of Utah made in 1965 to the Ute Indians to compensate the tribe for contributing its waters to the central Utah project. In summary, Mr. President, this bill solves many, many problems, creates many new opportunities, and prepares Utah so it can face the future confidently.

The passage of this bill today represents the culmination of the dreams of many, many Utah citizens. The father of the CUP was the late Edward W. Clyde, a man who had the foresight and vision to bring Utah's share of the Colorado River to the populated areas of the Wasatch Front and the farms and ranches of central Utah. I would also like to give credit to a bipartisan group of Utah Governors and Members of Congress, who beginning with passage of the 1956 Colorado River Storage Project Act have fought hard for their State's water interests here in Washington: Governors J. Bracken Lee, George Dewey Clyde, Calvin L. Rampton, Scott M. Matheson, Norman H. Bangerter, Senators Arthur V. Watkins, Wallace F. Bennett, Frank M. Moss, ORRIN G. HATCH, Representatives Henry Aldous Dixon, William A. Dawson, David S. King, M. Blaine Peterson Laurence J. Burton, Sherman P. Lloyd, K. Gunn McKay, WAYNE OWENS, Allen T. Howe, Dan Marriott, JAMES V. HANSEN, Howard C. Nielson, David S. Monson, and BILL ORTON.

Mr. President, water is the life blood of my State. Utah is the second most arid State in the union. This measure we are about to pass is absolutely vital to the long-term future of my State. I hope we can move quickly to resolve our differences over other titles of the bill with the House in the upcoming conference. I look forward to that opportunity and to the day when this measure is on President Bush's desk for his signature.

Mr. HATCH. Mr. President, the Utah congressional delegation, in cooperation with congressional leaders, the administration, environmentalists, farmers, native Americans, power interests, sportsmen, and State and local leaders, has spent much of the last 4 years in vigorous, detailed, and sometime very contentious negotiations trying to reach an agreement on legislation that would lead to the completion of the central Utah project and meet longstanding obligations to the people of Utah.

While it was difficult, an agreement was finally reached by our very diverse coalition and we are considering that agreement here today. I doubt that anyone involved in the negotiations is completely satisfied with the final product. Compromises were required of everyone, but as a result of those compromises, we now have a bill that has the support of every affected group.

From our compromises, we have created a balance and innovative bill that will finally address the many difficult issues associated with the construction of the central Utah project. This is a landmark piece of western water legislation and I would like briefly to discuss some of the highlights.

Our legislation will provide sufficient funds to complete both Wasatch front municipal and southern Utah irrigation components of the project. We have included provisions to reform almost every adverse environmental impact that has resulted from construction of the central Utah project. It guarantees minimum stream flow protection to 240 miles of Utah streams and rivers. We have provided a major funding source to restore or improve wetlands, big game rangelands, and fisheries. We have required water users to develop conservation plans in a effort to better protect and manage Utah's water resources. In addition, we have eliminated several features that were considered too costly or unnecessary.

A key to the agreement is the consensus concerning the establishment of an ongoing mitigation and conservation fund in Utah to assist in the repair and enhancement of projects called for in the bill. Under the plan we have developed, project beneficiaries, and State and Federal Governments would all contribute to establish the fund.

We have also included a title to resolve the longstanding claims of the Ute Indian Tribe against the U.S. Government. It provides a fair and complete settlement of the water rights claims of the Ute tribe of eastern Utah by creating financial investment opportunities in lieu of costly and infeasible water development projects. I believe that this component is an essential part of the bill, and that it is time for the Government finally to make good on the promises made over 25 years ago.

Mr. President, I am certain you are well aware that the central Utah project is extremely important to the future of the State of Utah, and its completion has been of paramount importance to Senator GARN and myself all the years we have spent representing Utah.

For Utahns, the wise management of water is a necessity. It is a natural resource without which there can be no growth of any kind in our State. It was the recognition of the fact that Utah was one of the driest States in the country which led to the development of the central Utah project: a project designed to allow the State of Utah to utilize water from our many mountain streams in a manner that would enable the State to control its growth and destiny.

There is no question that we are asking for a substantial increase in our spending ceiling, but I believe our request is justified. We are asking that the Federal Government fulfill a promise that was made to the people of Utah over 40 years ago. We are attempting to provide the people of Utah with a reliable source of water that will guarantee economic growth and stability well into the next century while addressing the severe environmental impacts associated with construction of the project.

In addition, I want to make it very clear that this bill is not a gift to the

State of Utah. Utahns have agreed to pay 35 percent of the cost of the features that are authorized in this bill. This is a substantial sum to the citizens of Utah, in fact it is higher than has ever before been required for a Federal reclamation project, but it is a sacrifice that we are willing to make to assure a reliable water system.

I believe it is important to also point out that completion of the project triggers very substantial repayment obligations. The costs allocated to irrigation will be fully repaid over a period not to exceed 40 years. Irrigators pay on the construction costs up to their ability to pay and power revenues provide the balance. The municipal and industrial water users will pay back their obligations over 50 years with interest. It has been estimated that repayment will eventually bring over $2 billion into the Federal treasury.

Mr. President, this legislation will reclaim water for municipal, industrial, and agricultural uses; help prevent flooding and accompanying property damage; provide facilities for recreation and fish and wildlife, and increase farm and industrial income. What began as a vision is now nearing completion and total fulfillment. We have developed a very balanced proposal that takes into consideration the needs of all of the people of Utah as well as our responsibilities to the American taxpayer.

Mr. HATFIELD. Mr. President, I rise today in support of the Senate's consideration of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1992. While I have some concerns about this legislation, I am pleased that it is on its way to becoming public law.

I would like to commend my colleagues Senator BRADLEY, chairman of the Water and Power Subcommittee, Senator JOHNSTON, full committee chairman, Senator BURNS, ranking member of the Water and Power Subcommittee and Senator WALLOP ranking member of the full committee for working diligently for many months to move this legislation out of the Energy Committee and to the Senate floor. Their efforts deserve high praise.

As many of my colleagues know, I have a strong interest in the future of this Nation's water resources. In June 1991, I introduced S. 1228, the Western Water Policy Review Act, as a free-standing bill to establish a Commission to review water policy priorities and objectives in the West. A hearing was held on S. 1228 in the Energy and Natural Resources Committee in September 1991, and an amended version of S. 1228 was adopted as title XXXI of H.R. 429 in the committee markup on March 17, 1992.

The H.R. 429 version of the Western Water Policy Review Act establishes a 10-member, 5-year Commission designed to study and evaluate western water policies in the 17 reclamation States, Alaska, and Hawaii. Upon completion of this evaluation, the Commission will recommend necessary changes in existing water policies to the President of the United States. Eight congressional Members will serve as ex-officio members of the Commission in order to provide a degree of congressional oversight on the enactment of necessary legislative water policy changes.

During the Energy Committee hearings on this legislation, I expressed interest in expanding the Western Water Policy Review Commission to be national in scope. I will not, however, be expanding this legislation today. During markup of the Western Water Policy Review Act, my distinguished colleague Senator WALLOP made a most welcome observation—that the overwhelming scope of a review of national water policies may be sufficient to overburden the Commission and possibly negate any positive outcome. Senator WALLOP then suggested that regional water policy review commissions may be better able to identify parochial problems and recommend plans more reflective of regional concerns.

I have followed this philosophy in the past, especially as it relates to the Columbia River Salmon. The basic premise behind the Salmon summit, which I convened in June 1990, was that problems affecting a particular region of the country are best solved by those most familiar with regional concerns. This process can be characterized as the bubbling-up process, where solutions originate at the base level and rise to the surface, rather than being imposed by some higher authority. This approach can be directly applied to the western water policy review legislation.

In the future, I hope the Congress can learn from the model we are implementing today in the West and enact legislation which will assist other areas of the Nation in evaluating and correcting their own water policy implementation and formulation problems. I pledge my full support and efforts toward this endeavor.

Additionally at this time, I would like to make my concerns known as they relate to the decision by the Energy and Natural Resources Committee not to include any provisions relating to reclamation reform in H.R. 429. I realize these provisions were removed from consideration temporarily, and that the reclamation reform issues raised by Senator BURNS in S. 1501 will be discussed in the conference committee with the House of Representatives, should this legislation pass the Senate. Nevertheless, I wish to express my desire to deal with several issues which are particularly troublesome to Oregon's reclamation farmers.

Because Oregon has only a handful of farmers with more than 960 acres of irrigated land, many of the provisions of the Burns amendments designed to eliminate the abuse of water by farmers and trusts over 960 acres do not apply. The Burns amendments do, however, address several problems concerning Oregon's irrigation districts. For example, the Burns amendments would raise the reporting requirement on 40-acres farms to farms of only 320 acres or more. This would significantly limit the amount of paperwork, enforcement procedures, and costs which must be borne by Oregon's small farmers and local irrigation districts.

Additionally, the Burns amendments would create the penalty ceiling of $500 for clerical errors on reporting forms. Currently, a penalty of $10,000 is applied to such unintentional irrigation districts which dominate Oregon's reclamation system, and is totally out of proportion to the nature of the offense. The Burns amendments propose a cap of $500 for an inadvertent error and $10,000 for an intentional act at circumventing reclamation law.

I look forward to further consideration of the Burns amendments when the omnibus reclamation package is considered by the conference committee with the House of Representatives. Additionally, and most importantly, I look forward to enactment of the Western Water Policy Review Act as title XXXI of the Energy Committee's version of H.R. 429.

Mr. BURNS. Mr. President, I want to thank Members of the Senate for agreeing to pass the omnibus water package incorporated in H.R. 429. It contains a lot of major water projects including CVP, Cup and a little Pick Sloan authorization in my own State of Montana.

In the grand scheme of things the proposal made in Montana for a Pick Sloan allocation is extremely modest. The bill would simply allow two irrigation projects located along the Yellowstone River in my State of Montana to receive electrical power at a firm power rate as envisioned in Pick Sloan.

Mr. President, Pick Sloan was developed to reduce flooding and improve transportation in the Lower Missouri River Basin. These goals were achieved by constructing a series of dams in the Upper Missouri River States. In Montana the world's largest earthen dam was constructed at Fort Peck, MT.

The upper States gave up a total of 1.6 million acres of irrigable river bottom land. Under Pick Sloan these lands were to be replaced in the construction of new irrigation lands.

The dams were built—the flooding controlled in the lower States, and transportation along the Missouri made a reality—but the irrigation projects were never built in the upper States. Montana has received only 5 percent of the over 1,000,000 acres that were envisioned.

One of the primary factors influencing the construction and operation of

irrigation projects is the cost of electrical power. Pick Sloan addresses that issue. Fort Peck has two giant turbines that provide a significant electrical power source. Pick Sloan power for Pick Sloan irrigation.

This bill doesn't mean a Federal appropriation. It simply means that Montanan's will begin to benefit from the great promises made by Pick Sloan.

H.R. 429 has a long way to go. It involves some of the most contentious water projects in the country. But we have to start somewhere. Montanan's have waited far too long for some fair compensation for the losses suffered under Pick Sloan. This measure would in a small way begin to repay that debt.

Thank you, Mr. President. I yield the floor.

Mr. WALLOP. Mr. President, I am pleased that the Senate is passing H.R. 429 as reported by the Committee on Energy and Natural Resources. I have a personal interest in the first title, dealing with completion of the Buffalo Bill Dam in Wyoming, but that provision has passed both the Senate and the House several times. It keeps being held hostage for unrelated and irrelevant measures, but hopefully this is the last time the Senate will have to pass it.

Last year, my legislation was held hostage to Reclamation Reform. While the House once again passed an obnoxious measure which would have had the Federal Government interfering with how farmers manage their farms and operate their business, I am pleased that the committee rejected that approach. While I support S. 1501, legislation introduced by Senator BURNS, and I also supported the amendment which he offered in committee, I think deletion of the title is a responsible approach. I concur with the views of Senator HATFIELD that we do need to address the penalties provisions, but that issue can be dealt with in conference.

I am particularly concerned that a new element was introduced this Congress. For some reason, Buffalo Bill has been held hostage to legislation dealing with the Central Valley project of California. The committee reported legislation introduced by Senator SEYMOUR without amendment. That represented in my view a correct judgment that Senator SEYMOUR'S legislation was the only proposal which could secure a majority of the committee. I agree with Senator SEYMOUR that some modifications are probably useful, but I completely disagree with the additional views submitted by Senator BRADLEY.

The criticism of the failure to include a transfer of the CVP to the State of California is also troubling since the proposal from the Governor originated well after Senator SEYMOUR introduced his legislation and the chairman of the committee did not want to entertain any amendments.

The additional views of Senator BRADLEY represent a particular view as to what California should do and how California should look. That is not the business of the Federal Government. We do not need to engage in social engineering for the benefit of particular special interests in California, we should be supporting the State. Senator SEYMOUR has done that, and he should be congratulated. The problems of the CVP are complex and can best be resolved by California and the people in California. Senator SEYMOUR's bill is a giant step in that direction and the committee's decision to support that approach rather than the one taken by Senator BRADLEY and the chairman was correct. Their approach would have been devestating to the economy, environment, and future of California. I am happy that the committee and now the Senate has rejected it.

If the Congress really wants to help California, it would transfer the project subject only to California agreeing to pay off the remaining allocable reimbursable costs of the project in accordance with the existing schedule. The Federal Government would be whole and California would have the flexibility to manage its, and I repeat its, water for the benefit of all water users and the environment. Although the project users are only required to reimburse the Federal Government for the allocable reimbursable costs, that is, the actual amount which the Federal Government spent in constructing those portions of the project which are subject to repayment, that is not what Senator BRADLEY'S additional views would indicate. While using the rhetoric of support for the State, Senator BRADLEY has now determined that the present fair market value of the project is $3.8 billion although the remaining allocable reimbursable costs is far less. An analogy would be a home mortgage where the homeowner has repaid the amount he borrowed but the mortgage company refuses to hand back the title and cancel the debt unless the homeowner now pays the full fair market value of the home. You can guess what the price tag will be for a transfer, not to mention all the other strings which will be attached.

Mr. SEYMOUR. Mr. President, I would like to commend Chairman JOHNSTON and Senator WALLOP for their leadership and efforts on passage of the Reclamation Projects Authorization and Adjustment Act of 1992.

Both the chairman and Senator WALLOP have been very accommodating in addessing my concerns regarding several provisions of this bill specific to my State of California.

The bill includes several titles which address California's pressing water needs. These include comprehensive water reclamation and reuse studies for southern California cities and counties. Further, it authorizes the Secretary of the Interior to participate with city and county of Los Angeles and the city of San Jose in the design and construction of water reclamation, reuse, and water quality programs and projects.

The bill also authorizes the Secretary to conduct research on available methods to control salinity in the Salton Sea. Additionally, I am delighted that we were able to authorize a permanent water contract for the San Joaquin National Veterans Cemetery.

Mr. President, I was pleased that the committee chose to adopt the S. 2016, the Central Valley Project Fish and Wildlife Act, I introduced November 21, 1991, into the Reclamation Projects Authorization and Adjustment Act of 1992. This bill directs the Secretary of the Interior to undertake specific activities to address fish and wildlife problems associated with California's Central Valley project. The bill also removes the Federal barrier which has historically prohibited water transfers from agricultural users to urban and industrial uses, and requires Central Valley project agricultural users to use water more efficiently.

Last year, the Senate Energy Subcommittee on Water and Power held four hearings on CVP legislation; in Los Angeles, Washington, DC, Sacramento, and San Francisco. I attended all four. Approximately 75 witnesses testified during these proceedings, many followed up with written remarks to supplement their testimony.

I and my staff have met with virtually every interest in this debate; including representatives of environmental, agricultural, urban, fishery, conservation, and power interests. We also met with representatives of the CVP and State water districts, the State of California, the U.S. Fish and Wildlife Service, the Department of the Interior, and the Department of Agriculture. My office has met with everyone who has requested a meeting on this issue.

In early March, Chairman JOHNSTON requested that several Senators meet in an effort to negotiate a compromise CVP bill. During the negotiations, it became apparent that resolving the central issues in CVP legislation was much more complicated and costly than anyone had initially imagined. Possibly the most difficult issue to resolve was the question of water for the environment. Everyone acknowledges during dry periods, fish and wildlife need firm water supplies that will ensure survival of the species. But how much water is required to ensure that survival of various species now threatened? Where will it come from? How much will it cost either to develop this new water, or to purchase it? And, who will pay for it?

As we painfully discovered, there are no simple solutions. During drought—

and we're in our sixth year now—there is precious little water for anyone. Just look at the cutbacks that urban, industrial, and agricultural users have endured for the past few years. How much water do we provide for fish and wildlife needs during drought? In the absence of credible data, it is difficult and possibly irresponsible to make such a determination. When there is credible data, as in the case of wildlife refuges, we can identify ways to deliver the water. In regard to the needs of the fisheries, it is clear more water is needed during dry periods. But we should not delay adopting solutions to already identified fishery problems.

Unfortunately, various special interest groups have become fixated upon a single amount of water exclusively for fish and wildlife needs. They believe 1.5 million acre-feet of water for fish and wildlife is the minimum amount of additional water supplies necessary for fish and wildlife in the Central Valley. Frankly, their utter lack of willingness to find a reasonable balance is one of the major stumbling blocks to developing compromise CVP legislation that would address urban, agricultural and environmental water needs.

The effect of reallocating 1.5 million acre-feet away from urban and agricultural users solely to fish and wildlife would be disastrous to California. According to the California Department of Food and Agriculture, a reallocation of this water would cost the State roughly $6 billion in lost economic activity. It would also result in the loss of over 10,000 jobs—over $210 million in lost wages. CDFA also projects that it would result in the idling of over 1 million acres statewide—a loss of over $1.5 billion in gross farm receipts.

Another matter is how would this water be acquired each year? Should it be developed through new storage facilities, through the idling of cropland, or should it be purchased annually or permanently? Is it even possible to build all of the facilities required to develop 1.5 million acre-feet, or would it require a combination of new storage facilities and annual purchases? Finally, what would it cost to acquire that much water?

The Department of the Interior estimated that raising Clair Engle Dam with a pump-through storage to Shasta Dam, construction estimates only, not including annual operation and maintenance, would cost approximately $3 billion. If built, this facility would yield approximately 700,000 acre-feet annually. If you accept the approach that you need an additional 1.5 million acre-feet, in this instance, only half of the annual delivery to fish and wildlife has been developed, at a cost of $3 billion. And you would still need to obtain an additional 800,000 acre-feet.

Another option we explored was to direct the Secretary of the Interior to buy 1.5 million acre-feet annually. This option was also financially unreasonable. Consider, the State of California's 1991 water bank. Last year, the State of California purchased approximately 750,000 acre-feet at a cost of roughly $125 million. This was a one time purchase. The costs associated with purchasing 1.5 million acre-feet annually would easily exceed $250 million, regardless of whether the Secretary purchased water rights associated with poor drainage lands in the San Joaquin Valley, or bought storage rights from existing storage facilities.

Then there is the question of who will pay for this water for fish and wildlife. Initially, there was speculation that a transfer fee could be placed on water transferred from agricultural use to urban use. It became apparent, however, that any charge on water transfers would not generate sufficient funds, because once 1.5 million acre-feet was devoted exclusively to fish and wildlife, there would be no water left in the Central Valley project to transfer to other parched urban areas.

There was general agreement that the structural improvements for fish and wildlife such as those in S. 2016, based on rough estimates would cost approximately $238 million. Acquiring 1.5 million acre-feet annually for fish and wildlife on a permanent basis was estimated at $2 billion, using $1,300 an acre-foot as the assumed cost.

Alternatively, to acquire temporary water for fish and wildlife in culminative 150,000 acre-feet annual increments for 10 years based on $100 acre-feet was estimated to cost roughly $1 billion. Two things became clear as a result of this discovery. First, the costs were much higher than anticipated, and would cause serious economic consequences if imposed over a 10-year period. Second, the goal of achieving 1.5 million acre-feet of water dedicated solely for fish and wildlife was unachievable in 10 years in all but very wet years without the same economic dislocation.

Senators JOHNSTON, BRADLEY, WALLOP, BURNS, and myself then explored the option to stretch out the costs of these structural measures and water purchases by examining the use of bonding authority. In each instance, the numbers told the story. It appeared that increases in power charges might exceed 20 percent, agricultural rate increases of 100 percent, and municipal and industrial rate increases of 200-300 percent. We even reviewed the option to apply a charge to prior rights and exchange rights water users. There was also a recognition among the negotiators that agricultural and urban water contracts can not simply be unilaterally amended to include a rate increase. Ultimately, none of the options we explored were acceptable to me or the constituents I represent. It's easy to promise all things to all people, but the reality is that reallocating 1.5 million acre-feet of water exclusively for fish and wildlife simply would not work. And that reality became clear to all members of the committee, before it reported S. 2016 as part of the measure now before us.

Let me emphasize that the decision to support my bill does not abandon California's fish and wildlife, or any particular group such as California's commercial and sport fishermen. I believe that the provisions of S. 2016 will make it possible to begin the restoration of California's precious fish and wildlife habitat.

Nonetheless, during dry years there must be minimum amounts of water available for fish and wildlife needs. I strongly support providing a minimum amount of water for fisheries during times of drought. In fact, S. 2016 provides for establishing increased flows on both the American and Sacramento Rivers.

S. 2016 would stabilize and augment river flows to restore and enhance the natural production of anadromous fish. The economic importance of salmon and steelhead runs, striped bass, and other fisheries are imperative to California's sport and commercial fishing industries.

In March of last year, I introduced S. 728, the Upper Sacramento River Fishery Resources Restoration Act, which incorporated the recommendations of the Upper Sacramento River Advisory Council. Established by an act of the California Legislature, the council devoted a considerable amount of time through open public hearings and meetings to develop a management plan to restore Sacramento River fish habitat. Many of the requirements contained in that bill, including mandated instream flow requirements, have been embodied in this bill. S. 2016 directs the Secretary of the Interior to establish increased flows in the rivers and streams below project dams. Once established, these flows will become a firm requirement of the Central Valley Project. S. 2016 requires the mitigation of fishery losses resulting from the Tracy and Contra Costa pumping plants; it provides authorization for the construction of a temperature control device at Shasta Dam for cooler water releases for spawning and outmigrating salmon; it authorizes the rehabilitation and expansion of the Coleman National Fish Hatchery by 1995; it requires the Secretary to enter into an agreement with the State of California to eliminate losses of salmon and steelhead trout caused by flow fluctuations at Keswick, Nimbus and Lewiston Regulating Dams; it authorizes the construction of a new fish hatchery at the Tehama Colusa Fish Facility, as well as authorization for the construction of a salmon and steelhead trout hatchery on the Yuba River; it authorizes the Secretary to minimize fish passage problems for

salmon at the Red Bluff Diversion Dam; it directs the Secretary to provide flows to allow sufficient spawning and out migration conditions for salmon and steelhead trout from Whisketown Dam. Finally, the Secretary is authorized to construct a barrier at the head of Old River in the Sacramento-San Joaquin Delta, by December 31, 1995, to partially mitigate the impacts of the CVP on the survival of young outmigrating salmon.

In addition, my bill provides for the immediate delivery of 380,000 acre-feet of firm water supplies to the 15 national wildlife refuges and wildlife management areas in the Central Valley. The wetlands and associated habitat are important to several threatened and endangered species such as the American peregrine falcon, bald eagle, Aleutian Canada goose, and San Joaquin kit fox, and support a winter population of nearly 6 million waterfowl. Sixty percent of the ducks, geese, swans, and millions of shore birds of the Pacific flyway crowd the existing acres. By the year 2000, it directs the Secretary of the Interior to increase the water supply to over 525,000 acre-feet annually. This has been identified by the Secretary of the Interior as the amount needed to fully manage all lands within the existing refuge boundaries.

While I've focused upon the fish and wildlife components of my bill, it is imperative that any comprehensive water bill for California address the growing water needs of our cities. That's why S. 2016 includes a water transfer provision that's the product of negotiations by the metropolitan water district, representing over 16 million water users, and CVP water users. This historic agreement would allow, for the first time, Central Valley water users to transfer water to cities such as Los Angeles, San Diego, and other urban areas. This provision provides for the protection of both ground water supplies and safeguards against third party impacts. Given California's explosive growth, voluntary water transfers are an essential component in any successful long-term water policy. This provision will help ensure California's cities access to a safe water supply in years to come. I will continue to insist upon the water transfer language as agreed upon in California, in any final CVP legislation. This week, the State of California has announced a comprehensive water plan, and I'm pleased to say Governor Wilson's plan includes water transfer guidelines identical to those in my bill.

I would also note for the RECORD that some have stated that my bill will not resolve the dredging issues in the San Francisco and Oakland Ports. I am, however, committed to keeping these ports open and vital.

For almost a year now, I have worked aggressively to ensure that bay area ports remain open to large vessel traffic. When I first became involved in this issue, it appeared that most maintenance dredging would be halted at the Oakland and San Francisco Ports. The holdup seemed to stem from a bureaucratic web that involved the Army Corps, the Environmental Protection Agency, and the National Marine Fisheries Service.

At that time, each of these agencies was working diligently, but independent of the other agencies. The result was stalemate; no solution, no permits, no dredging. And sadly, the potential loss of up to a 100,000 jobs and a $4.5 billion industry for the bay area.

I found it unconscionable that a multibillion dollar industry in California would be at risk because Federal bureaucracies could not seem to communicate with one another. I vowed not to let that happen. Since last July, we have been meeting regularly with all the pertinent Federal agencies. As a result, these agencies are placing greater emphasis on keeping the ports open and vital.

This new emphasis has yielded results. In the Port of San Francisco, the dredging of pier 27, pier 29, pier 94, pier 96, pier 80 (approach), pier 80 (Islais Creek), and Berkeley Marina has been permitted. The Port of Oakland, the Chevron oil transfer facility, and the Guadalupe Slough have also gotten permission to go forward with needed maintenance dredging projects.

Since I introduced my bill last year, it has become apparent that the State of California would like to take over the CVP. Although there are numerous issues to resolve before this could occur, I strongly support State ownership of the CVP. No other reclamation project is as integrated to a State's water project as the CVP is the California's State water project. I intend to do everything I can to assist California in this regard. In fact, Senators, JOHNSTON and BRADLEY indicated that they would not object to California's decision to take over the CVP.

I will not support legislation that benefits one group at the expense of another, or does not fairly address the needs of legitimate California interests. Recently, various special interests have attempted to characterize California's water struggle as one of farmers versus fishermen. Let me say, there is no place for this sort of wedge-forming politics in this issue. This is not a struggle between farmers and fishermen. The Endangered Species Act will not go away simply because we pass CVP legislation. Nor for that matter will the bay-delta proceedings. Ultimately, there is enough water for farmers, fishermen, and for cities. The challenge is for all Californians to work together.

The objective is balance. California is growing at a rate of 700,000 people a year, and the demands upon our natural resources will only continue to increase as our population grows. If California will ever clear this hurdle which threatens our economy and the quality of life for our citizens, we must balance the often competing needs of our cities and rural communities with our limited natural resources. I do not believe that commerce and conservation are incompatible. There will be sacrifice, difficult decisions lie ahead of us; but working together, we will resolve the water dilemma which has polarized our State for so long.

I'm committed to the resolution of fish and wildlife problems in California. I am equally committed to the resolution of the water shortage problems facing urban areas. For any legislation to achieve those objectives, it must reflect the concerns of those immediately affected. My bill is a product of California, representing conservation, agricultural, and urban interests.

Critics of my bill have indicated that passage of S. 2016 would represent a severe setback for the State of California. Despite these shrill predictions of doom and gloom for the State of California, the Senate chose to support my bill. The Senate has done so, Mr. President, because may bill balances the needs of urban, agricultural, and environmental interests. The approach by special interest groups does not truly reflect the broad interests or legitimate needs of my State, and it will only result in endless litigation at the expense of California's environment and economy.

The PRESIDING OFFICER. Without objection, the substitute, as amended, is agreed to, and the bill is deemed to have been read the third time and passed.

So the bill (H.R. 429), as amended, was passed.

Mr. CRANSTON. 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.

APPEARANCE BY SENATE LEGAL COUNSEL AS AMICUS CURIAE

Mr. CRANSTON. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in a case pending in the U.S. District Court for the Southern District of Ohio, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 287) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States ex rel. Barbara Burch versus Piqua Engineering, Inc.

Mr. MITCHELL. Mr. President, by Senate Resolutions 104, 117, 160, and 289 of the 101st Congress the Senate authorized the Senate legal counsel to file briefs as amicus curiae in actions pending in the U.S. district courts in order to defend the constitutionality of the qui tam provisions of the False Claims Act. These provisions authorize private persons to bring civil actions against contractors who have defrauded the Government and, to encourage such actions, to share a portion of the penalties and damages that are recovered on the Government's behalf.

Defendants in cases brought under the False Claims Act have argued that the act is unconstitutional in two respects. First, it is argued that authorizing private individuals to conduct litigation on behalf of the United States violates the separation of powers doctrine by infringing upon the executive branch's law enforcement responsibilities. Second, it is argued that the act violates article III of the Constitution by authorizing suits by individual's who lack any personal injury.

District courts in the northern and central districts of California, the northern district of New York, and the eastern district of Washington have since entered rulings in these cases upholding the constitutionality of the act.

The qui tam provisions of the False Claims Act have once again been challenged in United States ex rel. Burch, et al. versus Piqua Engineering, Inc., pending in the U.S. District Court for the Southern District of Ohio. As with the prior cases, the Department of Justice has not appeared in the litigation to defend the constitutionality of the qui tam provisions of the act.

This resolution authorizes the Senate legal counsel to appear in this case as amicus curiae on behalf of the Senate to continue to defend the constitutionality of the qui tam provisions of the False Claims Act.

The PRESIDING OFFICER. Without objection, the resolution is agreed to and the preamble is also agreed to.

So the resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, in the case of *United States ex rel. Barbara Burch* v. *Piqua Engineering, Inc.*, No. C-1-90-745, pending in the United States District Court for the Southern District of Ohio, the constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendments Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, *et seq.* (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of United States ex rel. Barbara Burch versus Piqua Engineering, Inc., to defend the constitutionality of the qui tam provisions of the False Claims Act.

Mr. CRANSTON. 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.

GENERIC DRUG ENFORCEMENT ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Labor and Human Resources Committee be discharged from further consideration of H.R. 2454, the Generic Drug Enforcement Act of 1992, and that the Senate then proceed to its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2454) to authorize the Secretary of Health and Human Services to impose debarments and other penalties for illegal activities involving the approval of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I am pleased to join my colleague, Senator HATCH, in putting forward compromise legislation that will address the need for improved deterrents against the types of improper activities revealed in the recent generic drug investigations, as well as provide similar deterrents for abuses in the brand name drug industry. I also want to thank Senator METZENBAUM for his willingness to help develop this compromise that will help restore the confidence of the American public in the generic drug industry, protect the integrity of the approval and regulation systems for both generic and brand name drug products, and deter future misconduct.

As the price of brand name prescription products continues to soar, it becomes increasingly urgent that we reestablish generic drugs as credible market competitors. Crucial to this effort is an FDA that can refuse to deal with bad actors who have abused the system for drug approval and regulation. The debarment authority in this bill gives FDA the tools that it needs to protect itself from such actors.

This bill sends a strong message to the drug industry by making it clear that companies or individuals that have engaged in illegal conduct cannot expect that it will be business as usual at the Food and Drug Administration. At the heart of this bill is new authority for the Secretary of Health and Human Services to debar companies and individuals from submitting, or assisting in the submission, of generic drug applications if they have been convicted for criminal acts which threaten the integrity of the drug approval process.

In addition to debarment authority this bill also provides new authority under the Federal Food, Drug and Cosmetic Act to protect against the risks to the public health posed by individuals who engage in illegal activities in connection with either the submission of applications for, or the regulation of, brand name drugs.

The House passed bill provides for a series of measures aimed at restoring the integrity of the generic drug approval process. These measures include: authority for FDA to refuse to accept or review abbreviated drug applications if a company has been convicted of criminal acts that threaten the integrity of the approval process; the power to temporarily deny approvals of generic drug applications while criminal investigations are ongoing; suspension of approved generic drug applications sponsored by companies which have a pattern of criminal activity, or which have demonstrated an inability to conform to basic manufacturing standards; and civil penalty provisions for fraudulent conduct in connection with abbreviated drug applications, or the use of debarred individuals by drug companies.

The Senate substitute retains much of the language from the House bill, and reference should be made to the legislative history of the House report for those issues not explicitly addressed in statements by the sponsors of the substitute.

There are two significant differences between the House-passed bill and the Senate substitute. The first is that the substitute extends FDA's authority by providing for debarment beyond circumstances where there have been convictions related to the abbreviated drug application approval process to include debarment for individuals who have been convicted for offenses related to brand name drug applications. The second is that the substitute extends debarment authority for individuals who have been convicted for offenses related to the regulation of drug products after approval.

The bill requires the Secretary of Health and Human Services to debar individuals who have been convicted of felonies related to the approval or regulation of drugs from providing services in any capacity in the drug industry. It also permits, but does not require, the Secretary to debar individuals who have been convicted for specified crimes, or for material par-

ticipation in acts that were the basis for criminal convictions. In imposing permissive debarment, the Secretary is required to make additional findings that the conduct that was the basis for the conviction may pose a risk to the integrity of the process for regulating drugs.

The Senate substitute contains one basis for permissive debarment that was not included in the House-passed bill. Section 306(b) contains a provision which allows the Secretary to permissively debar, for a period of up to 5 years, a high managerial agent of a corporation if that agent knew of criminal acts, knew those acts to be violative of law, and yet failed to report to appropriate officials, or otherwise respond appropriately, within a reasonable time. The bill provides a detailed definition of who would qualify as a high managerial agent.

The provision clarifies that a high managerial agent may be subject to debarment for failing to take appropriate steps to respond to those criminal acts related to the regulation of drugs of which the agent had actual knowledge, as well as those criminal acts about which the agent avoided gaining actual knowledge. This bill has been very carefully crafted to provide adequate due process protections for any high managerial agent whom the Secretary seeks to debar, and judicial review of the Secretary's decision to debar under this provision shall be reviewed de novo in U.S. district court.

The provision concerning the knowledge of high managerial agents is intended to provide the Secretary with a basis to address situations where there has not been active participation by an agent of a company, but the agent has not come forward with, or has avoided obtaining, information about criminal conduct that threatened the process for regulating drugs. It is appropriate to provide debarment authority in this area because such information about criminal acts is vital to efforts to protect the integrity of the drug approval process. The Secretary has discretion in determining the appropriateness and length of debarment under this provision.

The bill contains a provision allowing for possible early termination of debarment for individuals who provided substantial assistance in investigations or prosecutions of offenses of the Food, Drug, and Cosmetic Act. This modification of the House passed bill was done in response to a request from the Department of Justice, and provides the FDA and Federal prosecutors with more flexibility to obtain cooperation in investigations and prosecutions than would otherwise be available.

There are two additional matters relating to section 306 of the Federal Food, Drug, and Cosmetic Act, as added by section 2 of the legislation, which should be clarified.

The first relates to section 306(d), which establishes the circumstances and procedures for termination of debarment. The conditions for termination of debarment are identified in subsection (d)(3) and subsection (d)(4). Under subsection (d)(3), the FDA must terminate a debarment of a corporation if the conviction which served as the basis for the debarment is reversed, or if the FDA is satisfied that two conditions are met. Those conditions are identified in subsection (d)(3)(ii).

One condition is that changes in ownership, management or operations have fully corrected the causes of the offense involved and have provided reasonable assurances that the offense will not occur in the future. The other condition is that the firm's drugs have undergone sufficient audits, conducted by the FDA or independent experts acceptable to the FDA, to demonstrate that pending abbreviated drug applications and the development of drugs being tested before the submission of an abbreviated drug application are free of fraud or material false statements. Thus, in order to meet these conditions a firm will have to demonstrate that its abbreviated drug applications are free of fraud and material false statements and that it has taken precautions to provide reasonable assurances that its applications will not in the future have the problems that gave rise to the debarment.

Similarly, the circumstances for termination of the debarment of an individual are identified in subsection (d)(3)(B). Other conditions for termination are identified in subsection (d)(4). In all cases, the FDA would have to be satisfied that the conditions set out in those provisions are met.

The second matter for clarification in that this legislation does not limit any authority the agency has under current law to establish priorities in the review of applications to market products where the FDA determined that there is significant question with regard to the reliability of the data in such an application.

The legislation also does not limit any authority the agency has under current law to deny approvals of products where a significant question with regard to the reliability of the data in an application has been raised, except as provided in the new section 306(f) of the Federal Food, Drug, and Cosmetic Act, added by the bill. Section 306(f) would establish the procedures for temporary denial of approval of abbreviated drug applications where such a question has been raised. Section 306(f) does not limit the FDA's authority to issue a final decision under 505 or 507 denying approval of an abbreviated drug application.

This bill provides the FDA with the ability to take decisive action to protect the drug approval process and the regulation of drug products. Most importantly, it will deter future criminal acts that might threaten not only drug approval and regulations, but the public health.

I urge passage of this legislation.

Mr. METZENBAUM. Mr. President, during the recent generic drug scandal, it became apparent that criminal behavior can and does occur in drug companies regulated by the FDA. Thanks to the work of the oversight subcommittee chaired by Congressman JOHN DINGELL, the scope of the scandal is now known. However, the problem we face today does not stop with the generic drug industry. As the FDA said in June 1991, in testimony in a House hearing: "Although improprieties in the generic drug industry have taken center stage, fraud can be perpetrated by any company that FDA regulates." Because I share the concerns expressed by the FDA, I introduced S. 1982, the Drug and Device Enforcement Act of 1991.

The American people, the FDA, and the Congress are now painfully aware of the FDA's limited authority to protect the integrity of the drug approval and regulatory process. This act takes a major step in correcting this problem by expanding the FDA's authority to crack down on white-collar crime in both the generic and the branded human and animal drug industries. Under this bill, the FDA will be able to debar individuals and corporations when their criminal misdeeds compromise the integrity of the drug development, approval and regulatory process, and thereby endanger public health and safety.

As I stated when introducing S. 1982, wherever the Government is lax and there are large sums of money to be made, as was the case with generic drugs, white-collar crime can occur. In combining the important features of both H.R. 2454 and S. 1982, this bill will establish strong deterrents to white-collar crime and effective new remedial action for such wrongful behavior. I trust this bill will continue the process of restoring the confidence of the American people in our drug-approval process.

Mr. President, while I am pleased with the new enforcement authority contained in this bill, I am concerned that FDA needs similar authority with regard to the medical device, food, and cosmetic industries. S. 1982 would have extended the same authority to medical devices. In the next session of the Congress, I hope the Labor Committee and the House Energy and Commerce Committee will consider this matter more fully and determine whether such additional legislative action is warranted.

Mr. HATCH. Mr. President, the legislation before us today provides a much-needed remedy for the blatant fraud and corruption uncovered in the generic drug industry by the House Sub-

committee on Oversight and Investigations and the U.S. attorney for Baltimore during the last 3 years.

The bill is designed to restore public confidence in the generic drug approval process by debarring dishonest firms and individuals from participating in that process. This legislation will strengthen the FDA's ability to take action against firms and their products when there is strong reason to believe that fraud, bribery, and the like have occurred.

The bill establishes new procedures to ensure the future integrity of the generic drug approval process. It requires or permits the Secretary of Health and Human Services to debar from future generic drug approvals those firms and individuals convicted or materially implicated in bribery, fraud, false statements, or other crimes that undermine the FDA approval process.

The bill also permits the FDA to temporarily deny approvals for up to 18 months, with one possible 18-month extension, when the Secretary determines illegal activity has occurred; grants FDA authority to suspend the distribution of certain companies' drugs unless those companies can prove that some or all of their drugs are untainted; requires the mandatory withdrawal of any generic drug approval illicity obtained; and, finally, establishes a series of civil penalties for action corrupting the approval process.

Mr. President, the bill's mandatory corporate debarment provision is one of the more controversial sections of the bill.

Under mandatory debarment, a corporation convicted of one of the enumerated crimes must be debarred for a minimum of 1 year and up to a maximum of 10 years and may return to good standing only if the FDA is satisfied that the firm has fully corrected the causes of the offense and is likely to remain a good corporate citizen in the future.

Some have suggested that no sanction at all should be imposed on companies since individuals are, in the end, responsible for criminal acts. But the generic drug scandal has revealed so many instances of fraud and pervasive criminality, as well as the utter selfish manipulation of the generic approval process, that we have been forced to reject that approach. Instead, in cases in which criminal convictions have been obtained against corporations for conduct involving the drug approval process, we have concluded that mandatory debarment is justified and that debarred firms should not be permitted to participate in the approval process until the FDA is confident that the approval process will not be undermined in the future. We fully expect the agency to use its discretionary authority to the fullest extent when the facts merit such action.

At the same time, we have been mindful to distinguish between corporate debarment, which is based on criminal conviction, and the new administrative sanctions, such as the temporary denial of approval and suspension of authorities which are, of necessity, available prior to and, in some cases, in the absence of criminal conviction. In these instances, great care has been taken to provide a substantial procedural protection for firms and, correspondingly, the FDA's discretion has been strictly limited.

Let me address a subject that arose in the final negotiations on this bill. Concerns were raised, and they were valid concerns, that in the section on individual debarment, there existed the possibility that an individual could be debarred if the Secretary found that the individual had actual knowledge of an activity that led to a conviction of another person or took actions to avoid obtaining actual knowledge and that the high managerial agent failed to take appropriate action, such as discharging the employee committing the felonious activities or reporting this activity to the appropriate authorities. The concern was that this debarment would be based entirely on a subjective decision and that the protection of due process in the courts was not included. It was pointed out that all other instances of debarment would only be the result of a conviction. I want to assure all concerned that we have given this a great deal of thought, and I am convinced that the protections included in this bill will provide due process. The de novo review in district court afforded to high managerial agents in this bill, I believe, will protect an individual from any wrongful decision.

In interpreting section 306 with respect to debarment of individuals, it is the intent that it be recognized that the senior executives of major pharmaceutical companies manage far-flung worldwide activities and are not—and indeed cannot be—involved in all the details of any given project.

The passage of this bill is the culmination of 2 years of work. I would be remiss if I failed to cite the efforts of Congressman DINGELL and his staff. They have expended a great deal of effort in getting this bill through the other Chamber. On this side of the Capitol, the chairman of the Labor and Human Resources Committee, Senator KENNEDY, has done a great service to the country with his work on this issue. He and his staff have worked diligently for the passage of this bill. The final draft of this legislation bears his imprimatur, and I certainly appreciate his efforts.

Mr. President, the passage of the Hatch-Waxman Act in 1984 was one of my proudest achievements, and I have been deeply distressed by the generic drug scandal. With the rising cost of drugs taxing the pocketbook of millions of Americans, with Congress ready to once again seriously debate pricing practices in the drug industry, there is nothing more important than restoring public confidence in generic drugs and revitalizing the FDA's generic drug approval process. I believe this bill is an important step in that direction.

Mr. DURENBERGER. Mr. President, I rise today in support of H.R. 2454, a bill that imposes debarments and other penalties for illegal activities involving applications for approval of generic drugs.

Mr. President, I believe we should strive to protect the competitive marketplace for pharmaceuticals. Generic drugs can and should play an important role in providing competition for brand name drug products.

Unfortunately, Mr. President, some members of the generic drug industry, in complicity with some FDA officials, have engaged in criminal behavior that compromised the industry and eroded public confidence in the quality of its products. This behavior is reprehensible in and of itself, but also damaged the competitive marketplace.

We need to send a message to these pharmaceutical manufacturers and others who might try to emulate them, that such behavior is not only intolerable but punishable. The Generic Drug Enforcement Act of 1992 sends this message loud and clear.

This bill confers upon the Secretary of Health and Human Services [HHS] the authority to debar individuals and firms from participation in the drug approval process under certain circumstances. HHS will now have the authority to root out bad apples in the industry and bar them from the regulatory process.

Mr. President, I would like to commend my distinguished colleagues, Senator HATCH, Senator KENNEDY, and Senator METZENBAUM, as well as our distinguished colleague on the House side, Mr. DINGELL, for their efforts to produce this bill. I also commend the Pharmaceutical Manufacturers Association for its cooperation in translating this legislation into law.

The result of these endeavors is a good bill, a bill that will protect the integrity of the regulatory process, a bill that will ultimately restore the confidence of the American public in generic drugs.

AMENDMENT NO. 1787

(Purpose: To provide a substitute amendment)

Mr. CRANSTON. Mr. President, I send a Kennedy-Hatch-McCain substitute 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 California [Mr. CRANSTON], for Mr. KENNEDY (for himself, Mr.

HATCH, and Mr. MCCAIN) proposes an amendment numbered 1787.

Mr. CRANSTON. 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."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1787) was agreed to.

The PRESIDING OFFICER. The bill is deemed read a third time and passed.

So the bill (H.R. 2454), as amended, was passed.

The PRESIDING OFFICER. Without objection, the title amendment to H.R. 2454 is agreed to.

Mr. CRANSTON. 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.

COMMEMORATING THE NEW ORIOLE PARK AT CAMDEN YARDS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 288, a resolution introduced earlier today by Senators MIKULSKI and SARBANES, commending the new Oriole Park at Camden Yards.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 288) commemorating the new Oriole Park at Camden Yards.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

There being no objection, the Senate proceeded to consider the resolution

ORIOLES PARK AT CAMDEN YARDS: THE CROWN JEWEL OF BASEBALL

Ms. MIKULSKI. Mr. President, this past Monday, April 6, marked the much anticipated official opening of the heralded Orioles Park at Camaden Yards in Baltimore, the most beautiful baseball stadium in the world, when our Orioles defeated the Cleveland Indians with a 2–0 shutout.

Orioles Park at Camden Yards already has been recognized by baseball fans everywhere as the finest example of how the very best in baseball stadium design can be combined with historic architecture to recapture the ambience of the great urban baseball parks of long ago.

My hometown of Baltimore and the citizens of Maryland can take great pride in this magnificent red brick cathedral of baseball. The Orioles Park at Camden Yards is a crown jewel of American craftsmanship and quality at its very best.

I am proud today to introduce a resolution expressing the sense of the Senate's appreciation to those whose efforts made our field of dreams at Orioles Park at Camden Yards reality.

Mr. CRANSTON. We are ready for action on the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 288) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas Baseball is the national past time;

Whereas on April 6, 1992, the President of the United States George Bush threw out the first pitch at the Orioles Park at Camden Yards;

Whereas the Orioles Park at Camden Yards contains verdant fields of grass grown on Maryland's Eastern Shore;

Whereas Opening Day at Orioles Park at Camden Yards was the historic culmination of years of effort;

Whereas the Orioles Park at Camden Yards embraces the glorious traditions of baseball by reflecting the diverse urban character of the City of Baltimore;

Whereas the opening of the Orioles Park at Camden Yards is the latest step in the reinvigoration of the historic City of Baltimore; Now, therefore, be it

Resolved, that the Senate of the United States congratulates Eli Jacobs and Larry Lucchino, of the Baltimore Orioles, and Fay Vincent, the commissioner of Major League Baseball, upon the opening of Orioles Park at Camden Yards.

Sec. 2. That the Senate of the United States congratulates the architects of Orioles Park at Camden Yards, Janet Marise Smith and Joe Spear, for their important contribution to the character of the City of Baltimore and to the sport of baseball.

Sec. 3. That the Senate of the United States commends Governor William Donald Schaefer and Mayor Kurt Schmoke along with all the state and local officials whose determination made the opening of Orioles Park at Camden Yards possible.

Sec. 4. That the Senate of the United States congratulates the men and women whose skill, talent, craftmanship and hard work built Orioles Park at Camden Yards from the ground up, making Orioles Park at Camden yards the masterpiece of American quality and urban architecture that it is today.

Sec. 5. That the Senate of the United States commends the fans and all the people of Maryland whose support made this dazzling accomplishment possible.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion today on the table was agreed to.

ORDER OF PROCEDURE

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senator SYMMS be recognized to address the Senate and that, at the conclusion of his remarks, the Senate stand in recess as provided under Senate Concurrent Resolution 109 until 9:30 a.m., Tuesday, April 28.

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Idaho [Mr. SYMMS] as a member of the Senate delegation to the Mexico-United States Interparliamentary Group Conference, to be held in San Antonio, TX, May 1–3, 1992.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank my colleagues and I thank the Senator for allowing me this time for the introduction of a resolution which many, people have worked long and hard to have happen.

(The remarks of Mr. SYMMS pertaining to the submission of Senate Concurrent Resolution 110 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. SYMMS. I yield the floor.

ORDERS FOR TUESDAY, APRIL 28, 1992

Mr. MITCHELL. Mr. President, as I stated earlier I will propound a unanimous-consent request to deal with the disposition of H.R. 3337, the so-called coin legislation conference report. I previously stated I would do so and ask all Senators interested in the legislation to be present with respect to this proposal.

I, now, Mr. President, accordingly, ask unanimous consent that when the Senate reconvenes on Tuesday, April 28, at 9:30 a.m., the Journal of Proceedings be deemed approved to date; that following the time reserved for the two leaders, there be morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each;

That at 10:30 a.m., the Senate resume consideration of the conference report on H.R. 3337; that the time between 10:30 a.m. and 12:30 p.m. be equally divided and controlled between Senator RIEGLE or his designee and Senator CRANSTON or Senator WALLOP; that the Senate stand in recess from 12:30 until 2:15 p.m.; that at 2:15, the Senate proceed to vote on the adoption of the conference report;

That if the conference report is defeated, the Senate further insist on its amendment, request a further conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate; and following the execution of the foregoing two motions and one consent request, and prior to the appointment of conferees by the Chair, Senator CRANSTON or Senator WALLOP be recognized to make a motion to further instruct the Senate conferees; and that following the disposition of that motion, the

Chair make the appointment of conferees on the part of the Senate.

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

RECESS UNTIL 9:30 A.M., TUESDAY, APRIL 28, 1992

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess pursuant to provisions of Senate Concurrent Resolution 109.

Thereupon, at 7:06 p.m., the Senate recessed until Tuesday, April 28, 1992, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 10, 1992:

DEPARTMENT OF COMMERCE

EDWARD ERNEST KUBASIEWICZ, OF VIRGINIA, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS, VICE JAMES EDWARD DENNY.

DEPARTMENT OF JUSTICE

STEPHEN H. GREENE, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT, VICE THOMAS C. KELLY.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 10, 1992:

DEPARTMENT OF JUSTICE

GEORGE L. O'CONNELL, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

JOHN R. SIMPSON, OF MARYLAND, TO BE A COMMISSIONER OF THE U.S. PAROLE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997.

STATE JUSTICE INSTITUTE

SANDRA A. O'CONNOR, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1992.

DAVID BROCK, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

VIVI L. DILWEG OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

CARLOS R. GARZA, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FEDERAL LABOR RELATIONS AUTHORITY

ALAN ROBERT SWENDIMAN, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF 5 YEARS.