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PROCEEDINGS AND DEBATES OF THE 103<sup>d</sup> CONGRESS, FIRST SESSION

## SENATE—Thursday, January 28, 1993

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Reverend Richard C. Halverson, Jr., of Falls Church, VA.

Mr. Halverson, please.

### PRAYER

The Reverend Richard C. Halverson, Jr., of Falls Church, VA, offered the following prayer:

Let us pray:

Almighty God, we do not always know how to pray, especially when confronted with difficult judgments, such as those which confront us these days, Teach us to pray the prayer of Solomon who, when invited to ask anything of You, prayed thus: "Give \* \* \* thy servant an understanding heart to judge thy people, that I may discern between good and bad: for who is able to judge this thy so great a people?"—I Kings 3:9.

We make this humble request in the hope that it will please You as when Solomon first uttered it. And we give thanks for Your answer which promised that because Solomon had "asked this thing, and \* \* \* not asked for \* \* \* long life;" \* \* \* that You also gave that which Solomon did not ask, "both riches and honor; so that there should not be any among the kings like unto Solomon all his days."—I Kings 3:11-13. Amen.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

### THE JOURNAL

### RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the

Journal of proceedings has been approved to date and the time for the leaders reserved for their use later in the day?

The PRESIDENT pro tempore. The Journal has been approved by the previous order but leader time has not been reserved.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for the two leaders be reserved for their use later in the day.

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

### SCHEDULE

Mr. MITCHELL. Mr. President, under the previous order there will be a period for morning business today under which time Senators will be permitted to speak.

With respect to the legislative business, the Labor Committee has reported to the Senate two bills which are on the Senate Calendar: S. 1, which is the reauthorization bill for the National Institutes of Health; and the Family and Medical Leave Act. I have previously, on several occasions here on the floor publicly and in private discussions with Senators, expressed my intention to proceed to those two bills as soon as possible and I have requested of the distinguished Republican leader that he advise me as to whether consent can be obtained to proceed to those two measures or whether we will have to proceed by way of obtaining cloture on the motions to proceed to those bills.

Senator DOLE has indicated to me that he will consult with his colleagues—I believe he is in the process of doing so—and will advise me, I expect sometime during the day today, on the response. Therefore, I hope to have an announcement during the day today.

I expect that whatever the response we will be on one of those bills on Tuesday. That is to say if we cannot gain consent to do so, under the rules we will proceed in a manner that will

set up a cloture vote on a motion to proceed to one of those two bills on Tuesday. So Senators can anticipate that rollcall votes will begin on Tuesday, possibly Tuesday morning if it is a cloture vote on a motion to proceed. If it is consent it could be later in the day. So I will have an announcement as soon as the Republican leader has the opportunity to complete his consultation with his colleagues and advises me of the results of those consultations.

Mr. President, I yield the floor.

### MORNING BUSINESS

The PRESIDENT pro tempore. The senior Senator from Louisiana [Mr. JOHNSTON] is recognized for not to exceed 10 minutes in morning business.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 254 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from North Carolina [Mr. HELMS] is recognized not to exceed 10 minutes.

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

Mr. HELMS. Mr. President, the Federal debt runup by the U.S. Congress stood at \$4,171,137,611,859.33 as of the close of business on Tuesday, January 26, the latest available figures.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers \$286,022,000,000 merely to pay the interest on deficit

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

Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to \$5.5 billion every week, or \$785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes \$16,239.02—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be \$1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to \$4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

I yield the floor.

Mr. KRUEGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas [Mr. KRUEGER] is recognized for not to exceed 10 minutes.

Mr. KRUEGER. I thank the Chair.

(The remarks of Mr. KRUEGER pertaining to the introduction of S. 254 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Colorado [Mr. CAMPBELL] is recognized for not to exceed 10 minutes.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 255 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of Senate Joint Resolution 32 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I yield the floor.

The PRESIDENT pro tempore. The senior Senator from Arkansas [Mr. BUMPERS] is recognized for not to exceed 10 minutes in morning business.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 257 are located in today's RECORD under

"Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The junior Senator from Alaska [Mr. MURKOWSKI] is recognized for not to exceed 10 minutes.

#### THE IMPLICATIONS OF HOMOSEXUALS IN THE MILITARY ON THE VA BUDGET AND PRIORITIES

Mr. MURKOWSKI. I thank the Chair and wish the Chair a good day.

Mr. President, I rise to speak on an issue that is before the American people today, and that is the debate taking place on the issue of gays in our armed services. And I think it is important to recognize that the issue before our Nation is not the narrow issue of gays rights but rather the reality that service in the military is not a right but a privilege, a privilege for a very special group of Americans as evidenced by the process in which our military men and women come into our services.

The issue of sanctioning the presence of homosexuals in the military is not simple by any means. There are numerous implications to consider, both for the active duty military and for the veterans of our Nation who have yet to be heard on this issue directly. The long range implications to the Veterans' Administration need to be thoroughly examined and understood.

I would agree, as I think would most of my colleagues, that behavior in the bedroom is not Government's business as long as it is a private matter. But once it starts affecting the taxpayers, then it becomes a matter of appropriate concern for this body and of public concern as well. Unfortunately, this potential edict has already made this very private matter a very public one in a very short time.

In terms of lifting the ban on gays on active duty, I think three points need to be made.

First, until last night our President proposed to make this change by a stroke of the pen, with little or no input from Congress. I think it was a very heavyhanded approach.

Second, the people spoke very clearly in the last election. They want us to address the urgent areas, real issues: Jobs, the economy, health care. I think we have had enough divisiveness on social issues and the question comes to mind, Can we not defer this until much later, until we can understand the full implications?

And third, a well-run Armed Forces that this country has been blessed with is a vital national asset. The strength and cohesion of the military is what won the cold war. It was a strength and cohesion that won a hot war in the Persian Gulf. To risk that by unilaterally taking on this issue without careful consideration, in my opinion, is sense-

less and could very well affect our Nation's state of readiness within the military.

I am mystified to know why our new President would choose this issue when there are so many other issues, so much to be done, including, as I mentioned, health care.

We have seen in this week the announcement from Sears and Roebuck proposing to cut 50,000 jobs; IBM reeling under large losses; Boeing proposing huge layoffs; General Motors starting to implement the latest round of job cuts.

There is bipartisan agreement to act on the economy, health care, and reducing the deficit, but there is no consensus on the issue of gays in the military. The only consensus is not to act hastily. There are a number of implications to think through carefully, before action is taken.

The Armed Services Committee, under the leadership of Senators NUNN and THURMOND, announced they intend to hold hearings to consider the implications for the active military. They will consider:

How this would affect recruitment and retention, particularly when we are dealing with young 17- and 18-year-old men and women who may not have been exposed previously to a homosexual lifestyle in a cramped environment, as is often the case in the military.

How would it change military esprit and morale?

How would it affect relations in barracks and in the tight quarters aboard a ship or submarine when bunkmates may be less than 3 feet apart for 6 months or more?

How would it affect the privacy concerns of heterosexuals?

How would it affect everything from base housing to active duty benefits?

And how would it affect the readiness of the military?

But as the ranking Republican on the Senate Veterans' Affairs Committee, my concern is for the host of complicated and costly issues that will arise should this action be taken.

Since the armed services hearings likely will not address all the veterans issues, I am asking the chairman of the panel, my good friend Senator JAY ROCKEFELLER, to hold a hearing to focus specifically on issues relating to veterans and our ability to afford and underwrite our obligations to provide benefits.

These hearings will give the veterans of this Nation an opportunity to be heard, since this change could well affect them and the level of benefits they might receive in future years.

Would an influx of gays into the military—and later into the ranks of the Nation's veterans population—affect AIDS ratios in the military and thus future VA health care costs? We simply do not know.

How would VA's life insurance system be affected by premature HIV-related deaths of an increasing number? We do not know.

Would the VA become mired in controversy and litigation to determine if gay soldiers' partners are dependents or survivors for purposes of VA benefit programs? Government housing? We simply do not know.

HIV infections contracted in the military are now considered service-connected conditions for which compensation is paid. Gladly, there have been relatively few cases. Will a lifting of the ban add significantly to the VA's overtaxed health-care budget? We do not know.

We are sailing into uncharted waters. It will be hard enough to tackle the complexities of crafting a new national health-care system if the basic rules governing the largest element of the Nation's health-care system are cut adrift at the same time.

Prestigious organizations such as the American Legion oppose a change in current policy. The VFW and Amvets similarly are opposed. Virtually all service organizations have spoken out objecting to this.

Perhaps Amvets says it best when it says "we should not be trying to fix something that is not broken." As the National Commander of Amvets has said:

We have the finest forces in the world—diverse operations such as Desert Storm and in Somalia have shown that. To create division among them now literally puts the world at risk.

Clearly Alaskans have expressed their viewpoint. My phone and fax machines have been ringing off the hook. By the latest tally, responses are running 10 to 1 against gays being condoned in the military and that does not even take into account the mail.

We are only now beginning to identify the permanent questions. We must know the answers to them before we act.

I think prudence is the reasonable course. We are talking about a military policy of more than 50 year's duration. Surely, we can take the time to understand all the implications of casting it aside before we do so.

Mr. President, in summary, I join the ranks of Senators of both parties who urge that we exercise caution here, that we hold hearings and know what the implications will be, not because we are homophobic, but because we are concerned about possibly breaking a perfectly functioning military—the world's finest. This is a quagmire that we should not be stepping into, too quickly.

I yield the floor.

Ms. MURRAY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Ms. MURRAY] is recognized for not to exceed 10 minutes in morning business.

#### BOEING'S ANNOUNCEMENT AFFECTS WASHINGTONIANS

Ms. MURRAY. Mr. President, thank you for the opportunity to speak today. Mr. President, when the people of Washington went to the polls last November, they voted overwhelmingly for change. Change in the economy. Change in health care. Change in education. And change in the way our Government treats people.

I am here to be an agent for that change. I was elected to speak for my neighbors and friends in Shoreline, Seattle, and Spokane. I want to say what they would say if they were here in the U.S. Senate. Their agenda is my agenda. Their concerns are my concerns.

I had hoped that my first statement in the Senate would be about our common agenda. I wanted to talk about job creation, economic renewal, health care reform, and better schools for our kids. Instead, today I must speak about recent economic news that will have serious consequences for my State.

On Tuesday, Boeing announced plans to cut production of commercial aircraft by one-third. This decision may affect as many as 20,000 of the 80,000 Washingtonians employed by Boeing in commercial aircraft manufacturing. It will certainly affect their families, children, and their neighbors. The thousands of businesses in Washington that depend on a healthy aircraft industry will also be affected.

The Boeing Co. is an integral part of Washington's economy. As Boeing has grown and expanded over the years, our State's economy also has prospered. This is why the people of Washington State are concerned about Boeing's recent announcement.

I fear what this announcement will mean for my neighbors and my friends, for our communities and our schools. And I fear what this will mean for the national economy as a whole.

Boeing is the United States' largest exporter. Overseas sales pump some \$17 billion into our national economy and support 70,000 Boeing jobs. Every \$1 in Boeing aircraft exports multiplies into \$2.70 for the U.S. economy.

This announcement raises serious concerns among Washingtonians and numerous questions. As we try to find answers to the questions, I pledge myself to helping the affected families and the workers.

To start with, I will ask Boeing management to preserve as many jobs as possible through absorption into other production lines, such as the 777, or through part-time work. I will press Boeing immediately to offer counseling for all affected employees.

Over the long term, the best way to keep these workers employed is to restore the health of the American airline industry. Airlines are a vital component of our Nation's transportation sector. We must promote the replacement of aging fleets with more fuel ef-

ficient, environmentally sound aircraft. If a loan program will help the airlines replace their fleets more quickly, then we have to explore that as well.

I will work with the Clinton administration on including an airline/aircraft component in the infrastructure revitalization package.

Finally, no sector is more representative of an integrated global economy than American aircraft manufacturing. Boeing buys parts from around the globe and sells its planes throughout the world. The company is engaged in several codesign, development, and production agreements with foreign partners. But Boeing cannot compete against foreign government subsidies. Only through further restraint on such subsidies can Boeing hope to compete into the 21st century.

The corporate layoffs announced Tuesday reaffirm for me the need for us as a Nation to develop an economic vision for our future. We must work together, business and Government, to define better where our jobs are going to be in the future.

This will help us decide today what skills we need and how to teach them to our children so they can compete in the international job market of tomorrow. We need short-term relief, but the long-term challenge remains the need to create a vision for our Nation's economic future.

Today, tomorrow, and in the coming months, the layoffs will be in the mind of every Washington citizen. Every plane that Boeing makes depends on the skills of thousands of individual workers. These people, my friends and neighbors, are uppermost in my mind at this moment.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Vermont [Mr. LEAHY] is recognized for not to exceed 10 minutes in morning business.

#### A STRATEGY FOR FOREIGN AID REFORM

Mr. LEAHY. Mr. President, 3 years ago, by the end of my first year as chairman of the Foreign Operations Subcommittee, it became clear to me that foreign aid is in need of fundamental reform. We need to change the way we make decisions about programs and funding and the goals and priorities we pursue.

In a speech on this floor in 1990 I urged the Bush administration to look ahead to the 21st century. I asked that the President send to the Congress a foreign aid budget that would respond to the momentous changes that were sweeping the world since the fall of the Berlin Wall. I called for new directions in foreign aid. I stressed the need to modernize the Agency for International Development and to confront

the enormous global problems that have replaced communism as the greatest threat to our security.

Needless to say, the Bush administration did not heed my voice. However, I have continued to push that same message year after year. In the Foreign Operations Subcommittee, in the face of administration opposition we managed to begin shifting funds to new priorities. I am pleased that finally a consensus has emerged—accepted by the Clinton administration according to Deputy Secretary of State-designate Wharton—that real reform of foreign aid can no longer be delayed.

Today I will make the first of several statements during the next 100 days explaining why I believe foreign aid reform is so urgently needed. I will address what I see as the major obstacles to reform, and what I believe we must do. I will offer my views on a strategy for pursuing reform, and I will propose specific changes I believe are necessary.

In this first statement, I would like to concentrate on the context for reform. Before we can begin to change, we must understand how we got where we are, why reform is necessary, and why change must begin now.

The U.S. foreign aid program began after World War II with a farsighted decision to help the Western European countries to rebuild. Certainly one of the motivations for the Marshall Plan was generosity, but the fundamental reason was alarm over the rising tide of communism in Europe. The belief that poverty and hopelessness bred communism, and that economic prosperity and political freedom were the best antidotes, was formed in those early days. The linkage between economic development and political liberty, the driving force for our foreign aid policies for the next four decades, was forged right at the start.

The Marshall plan, which involved huge infusions of American aid, was a great success. It is often cited as the model for other major assistance efforts, such as the Alliance for Progress in the 1960's.

But what many people failed to understand is that the Marshall plan was so successful because it was carried out in countries that had already developed the traditions, institutions, and human resources necessary to produce sustained economic growth and politically open societies. What the devastated nations of Europe lacked was the means to rebuild. The Marshall plan, very simply, provided those means, and quickly produced an explosion of economic growth.

After the Marshall plan, the focus of United States aid shifted primarily to Asia, first to protect Korea, and then Taiwan, Vietnam, and other countries against Communist expansion. While it nearly always had an economic development component, again our assist-

ance was driven fundamentally by a national security goal of containing the spread of communism.

As United States foreign assistance efforts expanded into new areas, principally Latin America and the emerging new nations of Africa, the same basic national security considerations continued to apply. We maintained a linkage between economic development and the modernization of political institutions, with the idea that creating economic growth was an essential first stage on the way toward functioning democracies.

Through the Vietnam war, United States foreign assistance was primarily oriented toward bolstering governments which were—or claimed to be—anti-Communist. That such governments were often themselves authoritarian or even dictatorships was considered a lamentable but unavoidable cost in a larger strategy of containing communism. One these nations achieved economic growth, we thought, political pluralism and accountability to the people would surely follow.

Two features of this period in our foreign aid program's history are worth recalling. They do much to explain many of the failures and difficulties our foreign assistance efforts have encountered.

First, most of the Third World countries we sought to help did not possess the infrastructure and traditions necessary for economic growth and open political systems to flourish. Our aid programs lacked the fertile institutional ground upon which to work the economic and political miracles which occurred in Europe in the late 1940's and early 1950's

Second, the threats to these countries were perceived to be principally military, as communism was seen to be expanding through guerrilla insurgencies. While assistance was often aimed at economic development, the underlying rationale was that stronger economies meant greater ability to resist Communist attacks.

Because we are a generous people, for the most part we really did intend and expect that our assistance, while given primarily for security reasons, would also benefit the recipients by stimulating economic development. Or, to put it another way, we saw no inconsistency, and in fact a direct connection, between deterring communism and economic betterment. Looking at our own historical experience, as well as the Marshall plan in Europe, we thought economic growth naturally led to democracy and political stability. Traditional cultures would, we believed, give way to rapid political and economic modernization in the context of industrialization, urbanization, and economic growth.

As many more nations joined the international community, our aid programs expanded vastly in scope,

though, in comparison with the Marshall plan, not in the level of resources. We spread our limited assistance ever more thinly, trying to support non-Communist regimes in inherently unstable countries with very weak political and economic institutions. We continued to give priority to our goals of political stability and anticommunism in the face of a revolution in mass communications and related political and economic awakening of billions of impoverished peoples in the developing world.

And measured in terms of what we sought to do, our foreign aid programs were successful. Communism was deterred and finally defeated without global war. In defense of freedom and to contain communism, the American people have been generous. Since the Marshall plan, we have spent many hundreds of billions of dollars to support economic, development, and military programs in more than a hundred countries.

Yet throughout those years, and particularly since Vietnam where massive infusions of aid were unable to achieve our other goals of economic development and the spread of democracy, disillusionment about foreign aid has steadily grown.

With the waning of the national security justification for foreign aid, and I am sure the distinguished Presiding Officer hears, as I do, people increasingly asking how those hundreds of billions of dollars helped poor people abroad? Where, they ask, is the sustained economic development? Where are the Democratic institutions? Where are the open, pluralistic societies where basic human rights are respected? Why is degrading poverty still so pervasive?

There are many reasons why the complex process of political and economic development in the Third World is moving so slowly. But it is now clear that some of our basic assumptions about the stages of economic and political development in many new nations were wrong.

We expected foreign aid to work in poor, Third World countries the way it had worked in Western Europe. We are still discovering just how wrong our assumptions were in applying Marshall plan thinking to the developing world. Only in the last few years have we come to recognize how enormously difficult it is to create—where none exist—the basic institutions necessary to sustain economic growth and political pluralism.

So what lessons have we learned?

First, by placing such a high priority on political stability and anti-Communist credentials, we failed to insist on the establishment of Democratic forms and institutions. Too much aid went to support corrupt and repressive governments and not enough to foster the basic machinery of Democratic societies. These are the very things

that make democracy so strong in the face of political, economic, or military challenge.

Second, by paying too little attention to how Third World governments themselves functioned, we wasted hundreds of millions of dollars of American taxpayers' money. We did not demand that our development aid be used wisely, nor did we penalize recipient governments that did not produce better lives for their own people. Political stability came far ahead of demands for improved government efficiency and accountability.

As just one example, in Africa the four largest recipients of United States aid during the 1970's and 1980's were Somalia, Sudan, Zaire, and Liberia. Every one of those nations has lain under the boot of dictators who pillaged the treasuries and murdered their own people. As U.S. aid dollars flowed in, political oppositions were crushed, corruption flourished, military and political elites bled the economies white. Today those countries are devastated by civil war, anarchy, and famine.

Third, while our aid to Europe was received with appreciation and a realistic sharing of our national security interests, in the Third World it has often been met with suspicion about our motives and criticism of our country. Third World peoples are not fools. They knew what our priorities were. There was—and still is—much resentment that with our mouths we preached Democracy and political pluralism while with our dollars and weapons we supported dictators and authoritarian regimes. Too often our deeds did not match our words.

What we have is now a twofold disillusionment. At home, the American people are fed up with an outdated foreign aid program that no longer serves what most would agree are indisputable American national interests. Even our national generosity seems to have been perverted, since we see so little improvement in the lives of the poor we sought—or claimed we sought—to help. In fact, in many ways, particularly in the area of health, real advances were made. But across the board, progress was very uneven.

Abroad, there is anger that so much money and so much time has been wasted with so little result in the development of functioning economies, political pluralism, and social justice. Decades of assistance have made little difference to most people in Africa, or to many millions of the poor in Latin America and parts of Asia. Recipient governments have mishandled hundreds of billions of dollars of foreign aid which should have improved the lives of their peoples.

The consequences of this disillusionment on the political consensus here at home in support of foreign aid have been profound. As the national security rationale for foreign aid has grown ever

more strained and unconvincing, Congress has been groping to find a new approach that would reestablish a relationship between foreign assistance and tangible American national interests.

To be blunt, we in Congress must be given an explanation we can believe why continued foreign aid is in the national interest. And we must be able to persuade the American people that this national interest is real and will be advanced by foreign aid.

Since the height of the Marshall plan when in a single year we gave \$43 billion to Western Europe, the foreign aid budget has decreased. The recent high point was \$20 billion in 1985. Since then, the trend in foreign aid is downward. Today, the total stands at \$14 billion and accounts for less than 1 percent of the total Federal budget.

In fiscal years 1992 and 1993, Congress slashed the foreign aid appropriation deeply. In these 2 years, actual appropriations fell by about \$1.5 billion, and far more steeply from President Bush's requests.

Confronted by a growing gap between expectations and reality, appalled by lack of leadership, angered by accumulating evidence of substantial mismanagement and waste, and shaken by profound foreign policy disagreements, Congress increasingly has tried to push the foreign aid program into more positive directions. Cooperation with the executive branch has become a casualty of the loss of trust engendered by the Vietnam war and accentuated by continuing scandals, such as Iran/Contra, and widening disputes over policy, such as the war in El Salvador.

Reform efforts have abounded in recent years, but with inadequate political, bureaucratic, or intellectual preparation, all have failed. An ever growing list of theories has sprung up about what foreign aid should be used for and how to make it more effective. All this reflects the disintegration of the post-war consensus about what interests foreign aid is supposed to now serve. We now confront an absence of agreement about why the United States should have a foreign aid program at all, and if we are to continue to provide foreign aid, what specific national interests it is to serve.

Mr. President, as chairman of the Foreign Operations Subcommittee responsible for drafting and moving the annual foreign aid appropriation through the Senate, I do not believe it will be possible to enact another business-as-usual foreign aid bill. The last foreign aid bill was carried through the Congress only by the Israeli loan guarantee program. It was impossible to pass a fiscal 1992 foreign aid appropriation at all; the entire program was funded through a year long continuing resolution.

That stark reality explains why a top to bottom reexamination of our entire

foreign aid program is essential. It cannot be delayed. I know the Clinton administration wants to focus on domestic issues, a focus I agree with and support. But I also know there must be major changes in foreign aid funding priorities and in the rationale for the foreign aid program if we are to enact new foreign operations appropriations bills without their being gutted on the Senate floor.

I am pleased by Deputy Secretary-Designate Wharton's statement in his confirmation hearings that he will be in charge of developing a plan to reform foreign aid within 90 days. If the Clinton administration had decided to postpone the foreign aid reform issue, Congress would have to take reform up itself. We can afford no further delay in the complex task of redefining foreign aid goals and restructuring AID ourselves.

Even with full scale executive branch leadership, redefining the fundamental purposes of foreign assistance in the post-cold-war world will be difficult. There are many competing points of view. Many interests will be affected by change. Some argue that our assistance should focus mainly on promoting American commercial interests overseas in the way that some of our competitors, such as the Japanese, do. Others say foreign aid should be targeted at solving global problems which threaten our national well-being and the future of the planet, such as overpopulation and environmental degradation, the international drug trade, and AIDS.

Still others insist that ending poverty should be the goal of all foreign aid, and that sustainable economic development, political stability, reduced population growth, and preservation of the environment will follow naturally. And there are those who believe the only valid reason for providing large scale foreign aid is to advance concrete U.S. national security interests in specific areas of the world.

Complicating the task, Congress, and most of the executive branch, has lost confidence in the Agency for International Development. It is a rudderless agency in search of a mission. Torn in every direction by competing forces within the executive branch, under unrelenting pressure from special interest groups, and besieged by Congress, AID has become a bureaucratic stepchild.

Once AID shaped U.S. foreign assistance policy and its key programs. Today AID has been reduced to little more than an implementer of decisions made by others. The State Department micromanages AID's Eastern Europe and New Independent States programs. With proposed the new Under Secretary of State position for global issues, State is evidently going to take full control of environment, health and population policy and programs. After

years of resisting pressures from Congress to take leadership roles in all these areas, AID missed the boat on what are sure to be the driving forces of foreign aid in the future.

In my mind, so low has AID fallen that it is an open question whether the Agency should continue to exist, at least in its present form. The new Administrator will have a huge and difficult challenge to redefine and reshape that Agency in ways that will justify its future existence. I intend to address this question in detail in a future statement.

Any serious reform of AID must begin with the question: With the cold war over, do we even need a bilateral foreign aid program any longer?

I am struck by President John F. Kennedy's response to that question in 1961:

The answer is that there is no escaping our obligations: our moral obligations as a wise leader and good neighbor in the interdependent community of free nations—our economic obligations as the wealthiest people in the world of largely poor people, as a nation no longer dependent upon the loans from abroad that once helped us develop our own economy—and our political obligations as the single largest counter to the adversaries of freedom.

To fail to meet those obligations now would be disastrous; and, in the long run, more expensive. For widespread poverty and chaos lead to a collapse of existing political and social structures which would inevitably invite the advance of totalitarianism into every weak and unstable area. Thus our own security would be endangered and our prosperity imperiled. A program of assistance to the underdeveloped nations must continue because the Nation's interest and the cause of political freedom require it.

But the definition of how foreign aid was to serve the national interest in 1961 is no longer valid. Congress and the administration must find a broadly acceptable redefinition of the purposes of foreign assistance that will meet President Kennedy's basic tests of foreign assistance: A renewed foreign aid program must meet the national interest and further the cause of freedom and justice in the world.

What are our foremost national interests today, what goals should we set to further those interests, and how can we use foreign aid to achieve those goals?

I will address those critical questions in other statements on the future of foreign aid during the next 100 days. Today, I want to close by emphasizing that unless there are screams from the special interests and the multitude of lobbyists who have sprung up to protect virtual entitlements in the present foreign aid program, we will have failed to define a new direction for foreign aid. Unless we can make serious changes in funding allocations and in the goals of our programs, we will only be going through the motions. It will continue to be business-as-usual—for a little while longer. And then the pa-

tience of the American people with this noble experiment will be gone.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized for not to exceed 10 minutes.

#### THE ECONOMY

Mr. GORTON. Mr. President, both Washington State and the Nation received wake-up calls this week. Boeing, a manufacturing company closely associated with the State of Washington, the United States' largest exporter and perhaps its leading manufacturer of high-technology, high-value products announced a massive round of production cutbacks. The same wake-up call has been heard all across the United States in community after community by actions of a diverse group of companies. IBM announced a corporate restructuring which will affect thousands of its employees. Sears' corporate restructuring will cause 50,000 people, their families and communities, to go through a wrenching period of readjustment.

The message being delivered from Washington State and from across the country, Mr. President, is loud and clear. That message: "It's the economy, stupid."

This is what the campaign was about. This is what the people of the United States wish the new administration and the Congress to be about. They want us to focus not on secondary issues, as titillating or as controversial as they may be. They want us to focus on the jobs and careers and communities and families of this country.

People in Washington State as well as those in many other States are reeling from a weak economy. People are worried about their jobs, about their families, about their communities, and about their futures. In my own State, adding Boeing's employment reductions to those the State has experienced in the forest products industry, it is clear that no issue is of greater need or more immediate attention than the economy itself.

I have listened to what the people of my State have said about the economy. The demand that it be the first order of business here in Washington, DC, from its elected leadership, both in the executive branch and in the Congress. I am convinced that every decision Congress makes should be judged by one standard: How does it help people with jobs and how does it restore people to jobs and opportunities lost during the recession?

What America needs is simple: Strong and consistent leadership. The political leaders of this Nation need to provide clear direction, specific policies, and hard work. We cannot afford to spend our time pandering to beltway interest groups when it is crystal clear to ordinary people what needs to be done.

There are three issues which almost everyone in the country believes should be top priorities here in Washington, DC: the budget, taxes, and Government regulation.

Perhaps the biggest and toughest job we face here is getting our financial house in order.

The electorate was quite clear about this in November. Talking with people from my State, I had the sense that there is very little patience with the fact that the Federal Government cannot even come close to balancing its budget while on each and every day these same people must live within their means. We will obviously be held accountable if we fail.

Within the next 60 days, I am convinced that the new President must submit to Congress a serious deficit reduction plan. In fact, I am convinced that the success of his administration depends almost entirely on the way in which he reacts to that issue. If the President sends to Congress a plan which honestly, fairly, and equitably addresses the budget deficit, I am convinced that his will be a successful Presidency.

If, on the other hand, it is his third or fourth priority this year or even his first priority next year after the normal return to political divisions here in this body and in the House of Representatives, I greatly fear that we will never get to that job. And, that 4 years hence, we will find ourselves \$1 trillion in debt, another \$4,000 for each and every man, woman, and child in the country.

The success of this Presidency, Mr. President, does depend on how clearly, cogently, and forcefully the President leads in this connection.

Second, I believe that it is important for this President to move boldly with respect to tax policies. I am convinced that for this year, at least, he must disavow all significant tax increases. Clearly, with the kind of economic restructuring going on in corporate and business America, increasing the Government's take from the very people and companies on whom we rely to create new jobs is counterproductive.

I remind this body of the effects of the luxury tax increase in the 1990 budget bill. It affected very few of the millionaires at whom it was aimed but affected hundreds, perhaps thousands, of citizens in Washington State alone who work or used to work in the boatbuilding industry. These taxes devastated their lives and their communities and produced little, if anything, for the Federal Treasury.

There is no such thing as a painless tax increase. The bottom line is that increased taxes result in fewer jobs. The truth is the private sector can create more jobs with a given amount of capital than the Federal Government can. Tax increases affect real people, their jobs, and their communities. If

you take money from the private sector for the Federal Government, the result will be fewer people employed in the private sector, less food on tables, and more difficult mortgage payments.

Government actions in my own State have already cost thousands of jobs and victimized thousands of families in timber country in the Pacific Northwest. We do not need more Government policies which will inevitably cause more of the same. What every sector in this economy needs is a Federal Government that promises to live within its means and not to take an increasing share from the private sector.

Tax burdens have not decreased during the course of the last decade. Mr. President. The percentage of the gross national product going to Federal Government spending has increased. That is the cause of the deficit.

A final, clear signal Congress can send to America is that it understands the punishing effect of Federal regulations and how those regulations can adversely affect the Nation's ability to create and to retain good, high-paying jobs.

So through executive actions where possible, and legislative actions where necessary, this country's leadership should spend the next 6 months removing unfortunate and prohibitive Federal regulations from the backs of the business enterprises and the individuals on whom we count to create and maintain fine jobs.

We need sweeping changes. We need attention paid to our people at home. We need new leadership here in Congress just as we have one in the Presidency.

This Senator wishes the new President well because if he does well, this Nation will do well. He would do well, however, in the view of this Senator to spend less of his political capital on secondary issues, to remember his own campaign slogan, and to concentrate on creating a situation in this country in which job creation in the private sector is his number one goal.

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

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

The legislative clerk proceeded to call the roll.

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

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

#### CONGRATULATION'S TO SENATOR MURRAY

Mr. GORTON. Mr. President, about 30 minutes ago on the floor of the Senate this Senator's colleague from the State of Washington, Senator MURRAY, made her first speech to the Members of the U.S. Senate.

I should like to congratulate her on that speech. It covered many of the

subjects which this Senator has just discussed—the adverse impact of the Boeing layoffs and production cutbacks in the State of Washington—and included her pledge to opt for a growing and a booming economy in her State and across the country. I think it was a particularly fine example of an initial speech on the floor of the U.S. Senate, and gives great promise for the success of her first term in the Senate.

I should like to take this opportunity through the President of the Senate to congratulate her on a job well done.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mrs. BOXER] is recognized for not to exceed 10 minutes in morning business.

Mrs. BOXER. Thank you, Mr. President.

#### CHALLENGES FACING THE NATION

Mrs. BOXER. Mr. President, today is a special day for me as I come to the floor of the U.S. Senate to speak for the first time. I am honored to be here representing more than 30 million people in California, and I am equally honored to be serving in this enduring institution, in which so many historical debates have taken place.

I recall well my first speech in the House of Representatives—10 years ago this month—in which I talked of the terror of the nuclear arms race. I am heartened that today we have moved away from the nuclear abyss.

But now there are new challenges facing our Nation. In my campaign for the Senate, I heard about those challenges first hand. I traveled up and down the State, and everywhere I heard the same message. The people of California, like Americans everywhere, want change.

If we have been elected to do anything, it is to fight for new priorities in Government, to attend to the real, everyday problems faced by Americans.

Californians know firsthand the price that is paid when the economy falters and social needs go unmet. In my State, nearly 1.4 million people are out of work. Since June 1990, 836,000 jobs have been lost. Think of it—836,000 jobs and all the people that depended on those jobs. According to the California Department of Finance, the current unemployment rate is 9.7 percent, the second highest in the Nation.

I know that there are no simple solutions to our problems. But I believe in the essential goodness and courage of the American people. They want to do the right thing for their families, their children, their communities and their Nation. All they ask is for their leaders to lead.

Within days, Congress will take the first steps to address some pressing needs, by sending to the President three bills which I have long supported—and so many in this body have

supported—the Family and Medical Leave Act, the National Institutes of Health reauthorization, and the motor-voter legislation.

A responsible family and medical leave policy is long overdue. The United States has lagged behind all other industrialized nations in providing assurance to employees that they will be able to care for themselves and their families in an emergency without fear of losing their job. Businesses, too, will benefit from this policy, in improved worker productivity and morale. There should be no more choosing between a sick child and a job.

The NIH bill will reauthorize funding for critical medical research programs, including cancer, Alzheimer's disease, and AIDS.

And it raises women's health issues to a new high level of importance in areas of research and clinical trials. It confirms President Clinton's wise decision to lift the ban on fetal tissue research.

The motor-voter bill will encourage full citizen participation in Government by clearing up a confusing array of State voter registration requirements and encouraging millions of Americans to vote. We must live up to our promise of a government of, by, and for the people, and for that, we must get broad voter participation. It is at a very anemic percentage even in this very exciting Presidential election year.

So these changes in public policy are important steps toward restoring the faith of the American people in their Government. We will address other changes, however, that will not be as easy to achieve. Sometime in the next few days, the Senate may well be voting on the question of the service of gays and lesbians in the Armed Forces.

Mr. President, I recognize the high level of emotion surrounding this issue. But, for me, it is a very simple principle: Military service to one's country is about patriotism and loyalty to one's country, and to the rules that govern the military. We all know that there are many gays and lesbians serving in the military with distinction and with dignity. Many have given their lives for their country, and they have earned the highest awards for heroism.

I know it often is not easy to understand that other people are different. But if America stands for anything at all, it is that we are a tolerant nation. I had the privilege—the privilege—of going to a funeral today for the great Thurgood Marshall. As I sat there and listened to the brilliant words being spoken by people far more eloquent than I, Mr. President, I realized that this issue speaks to human rights and dignity and fairness and tolerance. That is what our democracy is about. If we love freedom and democracy and equality, then all of us should be ac-

cepted as a member of our American "family." We are all God's children, and we reach our moral heights as a nation, in my opinion, when that is the foundation of our rules.

In a few weeks, President Clinton will send his economic proposals to the Congress. As a member of three committees that will review many of his ideas, I really look forward to working with the President to enact an aggressive plan to restore growth and vitality to our Nation. We will be considering the President's plan for health care reform, and as a member of the Health Care Reform Task Force, I will be working with many in this body to ensure that the plan provides adequate coverage to meet all of our needs, including women and children.

Within the next few weeks, I will be proud to introduce several bills to carry out a legislative agenda that comes from the people of California. The first is the California Ocean Protection Act, which will provide for permanent protection to California's beautiful and fragile coastline by prohibiting offshore oil drilling in the waters of the Outer Continental Shelf. This legislation represents a continuation of my efforts in the House of Representatives. A pristine coast is essential to California's economic well-being as well as to its environmental well-being.

Second, I will introduce legislation to provide new remedies for victims of stalking. In communities throughout the country, people are reacting with alarm to incidents where innocent people are stalked by jilted lovers or estranged spouses. Stalkers sometimes turn to violence, even murder, and we must move vigorously to stop these tragedies.

I also intend to introduce economic diversification legislation that will help the California economy adjust to the post-cold-war downsizing of the defense industry; and on the Banking, Housing, and Urban Affairs Committee, I will work with my colleagues to end redlining, the despicable practice of discriminating against creditworthy, inner-city borrowers. I will fight to ensure that vacant housing units in the possession of HUD are rehabilitated and put back on the market to help our families.

I will work to help our Nation's veterans, who gave so much to this country, and yet, who constitute a disproportionate share of the homeless. In some cases, we find that up to 50 percent of the homeless are veterans.

I will work actively to ensure that our financial institutions are sound, yet meeting the lending needs of the Nation.

As a member of the Committee on Environment and Public Works, I will push for economic development proposals that will help California and our Nation repair its infrastructure, which is so critical to economic growth. I will

continue to fight the good fight for clean air and clean water and the preservation of our disappearing wetlands.

So, Mr. President, with these legislative tasks in mind, I am very eager to work as a Member of this great body, work that I hope will help restore faith in Californians that their Government can indeed function effectively for the good of all Americans.

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

The PRESIDENT pro tempore. A point of no quorum has been suggested. The clerk will call the roll.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes as if in morning business.

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

#### TIME FOR BUDGET DISCIPLINE

Mr. DOMENICI. Mr. President, this morning I was informed of the latest economic reports. The good news is the gross domestic product rose at a 3.8-percent rate in the fourth quarter following a 3.4-percent increase in the third quarter.

The economy is growing, but job creation lags behind. Once again, we are witnessing conflicting signs as our economy lurches toward full recovery. It begs the question. What is going on here? Even the so-called experts are baffled by the lack of job creation in a period of strengthening recovery. If we could have the kind of job growth that went along with the recovery following the 1982 recession, jobs would have been up 2.5 percent over the last 2 years. Instead, jobs hardly rose at all.

The answer, I believe, is fairly simple. Unlike past recoveries, our economy is straining against the weight of \$4 trillion in accumulated debt.

Today the chairman of the Federal Reserve Board, before the Budget Committee, precisely, deliberately and with great care and concern for detail, indicated that we have to get the long-term deficit under control, that we have to deliver a package indicating it will happen. It cannot only be anticipated, but will happen. That ought to be the first step in trying to find out why things are different. This fiscal milestone is a drag on our economic recovery as our annual deficits devour resources needed to spur additional growth.

Contributing to our sluggish performance is the nearly \$3.6 trillion in accumulated private corporate debt. Add to this a decision by many busi-

nesses to focus on increasing productivity rather than incurring the escalating expense of new hires and you begin to see why job growth is down.

On Tuesday, CBO Director Reischauer, told us that unless government reduces its borrowing, growing deficits over the rest of the decade will continue to dampen available capital for investment and growth. Left unchecked, he predicted our annual deficit will soar to \$650 billion in 10 years. And he made it clear—and Dr. Alan Greenspan today made it clear—that we need comprehensive, long-term enforceable deficit reduction in order to sustain economic growth and raise our standard of living into the next century.

The CBO finds that economy is growing slowly and is projected to continue to grow slowly, in part, because of the decline in the national saving rate over the last decade. And the Federal budget deficit has been a major contributor to that drop in saving. For this, I believe all of us are to blame—both Democrats and Republicans. Only a concerted, collective, bipartisan effort by all of us will turn this around.

But if debt is the illness and deficit reduction the cure, then a token short-term stimulus package simply compounds our woes. CBO has said, in effect, the responsible policy is to apply a fiscal tourniquet to halt the hemorrhaging in our economy. Those who advocate a short-term stimulus package suggest the cure is more bleeding.

Due to our tremendous debt burden, this recovery is unlike those of the past. The old methods—such as a Government-sponsored jobs program—will not work. As we have heard so often lately, we are in a new era of change, and we must abandon the failed policies of the past. That includes fiscal stimulus. There are things we probably should do, but adding to the deficit is not one of them.

After all, our \$300 billion Federal budget deficit represents the largest fiscal stimulus package in our history.

CBO says that reducing the deficit is the most direct and reliable way to increase national saving and long-run growth. But, as we all know, there are no silver bullets, no quick fixes. Deficit reduction won't come without sacrifice.

Promoting long-term growth will require some short-term pain. A political stimulus package that just adds more to the deficit or a shot of monetary stimulus to replace fiscal responsibility won't solve the problem. These are diversions. And that's also true for tax increases that create even greater barriers to small businesses—our Nation's job machines—or that hurt our international competitiveness. Real, enforceable, and reliable spending restraint needs to be a key ingredient in a deficit reduction package. I will not support any short-term spending stim-

ulus package unless it is tied and bound to real spending restraint and deficit reduction.

Indeed, part of any plan must require controlling entitlement spending. CBO projects a deficit of \$650 billion in 2003 mainly because entitlements are growing faster than economic growth can produce revenues. Between 1993 and 1998, total spending will increase by \$386 billion, while revenues will grow by only \$339 billion. Excluding interest on the debt which we cannot directly control, mandatory spending increases account for 96 percent of spending growth. And 93 percent of the growth in mandatories comes from three programs—Social Security, Medicare, and Medicaid. Clearly, we don't have a revenue problem we have a spending problem.

Such times also require creative thinking and bold new solutions. Senator SAM NUNN and I have suggested just such an idea—tax restraint on savings and investment—a plan to provide incentives for the savings and investment needed to spur future growth.

I cochair a CSIS Commission on Strengthening America with Senator NUNN. The Commission's first report last fall presented a plan to balance the budget by the turn of the century. That was a balanced plan of real spending cuts and limited revenue increases. In that plan, revenues would be part of the plan but in a ratio of only \$1 for every \$2.70 of spending cuts, and only after the spending cuts are locked into law. Deficit reduction can be done without laying all the burden on taxpayers.

The CSIS budget blueprint demonstrates that a plan can be crafted that is credible by being enforceable, and focuses on controlling entitlement spending. We can accept that responsibility. We accept the responsibility in that report. I trust we will begin to look realistically at our Nation's future and our children's future by not looking back, by not making excuses, by not side-stepping the problem—the one we really know about. That is not innovative and not new. It is fiscal sanity to get out from under this devastating spend and spend and spend approach.

I am not sure what we are going to do but I stand ready to work—bipartisan. But I do believe unless there are some real suggestions on changing this appetite for spending we will have no success. We will not bring back jobs in large numbers. And we will just harm the future for our children.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, we are in morning business and I ask for an opportunity to address the Senate in morning business.

The PRESIDING OFFICER. The Chair advises the Senator that under the previous order, time was set aside for morning business. So the Senator has 10 minutes.

#### AN IMPORTANT JUDICIAL OPINION

Mr. GRASSLEY. Mr. President, I want to take this opportunity to briefly discuss what I think is a very important judicial opinion that was recently handed down in what might be considered a little known case. However, I think it has significant impact upon an important provision of law that I have been involved in and was passed by this Congress about 6 years ago and has become very important in ferreting out fraud of taxpayers' money.

The fact is that last Friday, the U.S. Court of Appeals for the Second Circuit upheld the constitutionality of what are called qui tam provisions of the False Claims Act. This is the first circuit court decision that has addressed the constitutionality of qui tam provisions. Although this might sound like a rather obscure point of law to many of my colleagues, I think it is very significant for our taxpayers and for the Congress. It is significant for the taxpayers because under this law we have had almost half a billion dollars of reclaimed money that has come back that would not have otherwise come back to the Treasury.

The qui tam provisions of the False Claims Act, and this idea was first created in 1863 by Abraham Lincoln, allows a citizen with knowledge of fraud on the Government to sue on behalf of the United States as private attorneys general in return for a share of the Government's recovery. Since we amended the law in 1986 to reestablish some provisions which had been repealed in 1942 that hurt its applicability and use, as I have said, nearly \$0.5 billion in taxpayers' money has been recovered through qui tam suits, and the recoveries continue to increase almost exponentially. Qui tam is a very important tool for Congress because it allows us to supplement the limited resources of the executive branch to promote the interests of the taxpayers. There is a limit to the number of cases the Justice Department can pursue; by deputizing private citizens to act as prosecutors, based on information they already have about fraud, we allow many other prosecutors to help our Justice Department do its work. We then ensure that more fraud will be brought to light by whistleblowers, and that a larger proportion of meritorious cases will be brought.

Qui tam is not limited to fraud in public contracting. It can be used in

whatever circumstances Congress deems appropriate. For example, qui tam provisions were included in the financial institutions fraud reform legislation of 1990. The only boundary to its use is congressional imagination.

Given the success of qui tam, it is very good news that the second circuit had the good judgment to uphold its constitutionality. Judge Mahoney correctly rejected United Technologies' argument that qui tam impermissibly infringes on the executive branch's responsibility to prosecute in the interests of the United States. He properly ruled that the Supreme Court's complex standing requirements do not hinder qui tam relators, who stand—in this case, under qui tam—in the shoes of the United States and act as prosecutors, as if they were a U.S. attorney.

Hopefully, where there is another case like this in the ninth circuit, the ninth circuit will also uphold its constitutionality. Unfortunately, there are other aspects of the case in the second circuit that were not right from the perspective of those of us who, 6 years ago, sponsored this legislation and got it through that Congress. The Court last week incorrectly held that the plaintiff in the case should be jurisdictionally barred under a section of the act which prohibits suits based solely on information which is already in the general public domain. The purpose of that section, as we wrote it, is to limit suits where the Government is already prosecuting the defendant, not to bar suits that would never be brought without a whistleblower coming forward.

Fortunately, this incorrectly read portion of the act can be corrected through clarifying legislation similar to Representative BERMAN's false claims bill of last year. I am confident and hopeful that we can pass such a bill this year.

The notion that the qui tam should be struck down as unconstitutional seems preposterous to me given its historical precedent. Its English roots reach back to the 14th century, and Congress has employed it in various pieces of legislation since the 1820's.

But there is a problem out there, and that is that defense contractors are vigilant and aggressive in their efforts to escape liability for ripping off the taxpayers. They lobby very heavily in both the administrative branch and in the Congress to make changes or not to have it fully enforced. So it is going to take accord among the circuit courts, or perhaps even a ruling by the Supreme Court, to truly settle an issue that seems to be under constant attack, even though it has brought hundreds of millions of dollars back into the Treasury. There still are hundreds of cases out there filed and unsettled.

Therefore, full vindication of the constitutionality of the False Claims

Act may require the support of the Justice Department. To date, the Justice Department has been hostile to the idea of *qui tam*. As recently as last October, Attorney General Barr publicly complained that *qui tam* suits without Justice Department control, in his words, "constitute a burden—and a severe burden, we believe—on the contractors who are defending them." Now, you see, that statement speaks more about protecting contractors than it does about protecting the taxpayers. And in the process, he voiced his concerns about the constitutionality of *qui tam*.

While I have so far successfully prevailed upon the Department of Justice to remain neutral on the constitutional question, what is really needed is a Department that takes an affirmative stance in support of the constitutionality of the act.

In other words, as a practical matter for us Senators, we pass a law, presumed constitutional. If the President signed it and the Justice Department recommended the signing and raised no questions of constitutionality, then the Justice Department should be defending the constitutionality of that act. We should not have to have the Senate legal counsel go to those circuits to argue for the constitutionality of the act, and we have had to do that.

So I want to call upon this new administration to recognize the usefulness of *qui tam* and, hopefully, stand up for its constitutionality. The President's last nominee, Zoe Baird, opted to recuse herself. Of course, she did not get confirmed. But she opted to recuse herself from the issue based upon her past advocacy against the constitutionality of the act, and that was in her capacity of working for some defense contractors. Hopefully, whoever President Clinton sends up here as the next nominee for Attorney General will be able to openly support *qui tam*. The sad fact is that you cannot always count on the Federal bureaucracy to protect the taxpayers, and that is why *qui tam* has been used by Congress since the early 19th century to help protect the public fiscal position.

The executive branch should help guarantee that we will be able to use it in the future, and make sure that everything connected with it is carried out and fully used. I think even in the bowels of the bureaucracy of the Justice Department, even in the professional service there, there are people who do not like this because, as a practical matter, every time an individual citizen—even in the recently filed case that was decided in December that brought \$100 million back to the Federal Treasury from medical fraud, even something as obvious as that—when a whistleblower brings it to the Justice Department or takes it to the courts, it is a clear signal that the Justice Department is not doing its job.

Now, why should the Justice Department get defensive under that environment? Why not just welcome all the help that can be garnered from the individual citizen out there who knows about fraudulent use of the taxpayers' money and encourage whistleblowing, encourage the filing of these *qui tam* suits, and encourage the awarding of the percentage that the whistleblower can get as an incentive to do that.

#### COMMITMENT TO PUBLIC SERVICE

Mr. GRASSLEY. Mr. President, I had an opportunity this week to hold a reception honoring two of my employees, not for their service to CHUCK GRASSLEY or their service to previous employers, but for their service to the taxpayers and citizens of this country as employees of the U.S. Congress—in one instance, 44 years; in the other instance, 25 years.

This was not a retirement ceremony. These employees are working this very minute as far as I know, and I hope they will continue to serve the taxpayers for a long period of time.

But I had an opportunity to honor Yvonne Goodman for 44 years of service and Betty Burger for 25 years of service. That is a combined total of 69 years working in the shadows of the Capitol dome, laboring all but 12 for our beloved State of Iowa. One of my employees had worked for a Chicago Congressman for a 2-year period of time.

Yvonne Goodman came to Washington in 1949 from Osage, IA, with then new Congressman H.R. Gross. She served the district that he represented, Iowa's then Third District, for 26 years.

Upon his retirement and my election to succeed him, I was fortunate to have Yvonne join my staff immediately, and she still continues since I have come to the Senate. She has been a most valuable staff member ever since. There is no doubt that all Iowans have benefited from her loyalty, her standard of excellence, and steadfast commitment to service. As I stated before, I believe that she will be working on my staff for several years to come. I think she truly has made a difference, and I salute her.

In turn, I also applaud the fine work of Betty Burger, a native of Fairfield, IA, a 25-year veteran of Capitol Hill, serving 7 years for Iowa Congressman Fred Schwengel, who we all know as the head of the Capitol Historical Society, and she has worked 18 years with me and, as I said, 2 years for another Congressman.

Betty is a most outstanding case-worker. She, too, has helped me since my first day in Washington, DC. Reaching out to hundreds of thousands of Iowans challenged by our own bureaucracy and in dealing with other governments, Betty has untangled many knots and charted many success-

ful courses. Her determination and spirit have earned her praise in our State from the Missouri River to the Mississippi River, and I thank her for her tremendous service.

Along with the distinguished majority and minority leaders, I hosted a reception honoring Yvonne Goodman and Betty Burger on Monday of this week. Joining the special group gathered to recognize them was my good friend, Senator STROM THURMOND. I extend my appreciation to him for his presence and his kind words. As he said that day, Yvonne and Betty personify the best of representative government and public service with their integrity, with their hard work, and with their commitment to our democratic government. We are all better for them.

At a time when only Senators or top staff people get the most recognition through the news media or any of the media in this town or anyplace else in the country, I think that it is important that we recognize people who have served a long period of time at other levels of service in the Congress of the United States. That was my purpose in honoring Betty and Yvonne.

Thank you. I yield the floor.

#### SENATE OBSERVER GROUP FOR THE GATT NEGOTIATIONS

Mr. PRESSLER. Mr. President, the current Uruguay round negotiations on a new General Agreement on Tariffs and Trade [GATT] are reaching a critical stage. A new GATT agreement that ensures free and fair trade could bring tremendous benefits to American agriculture by opening more world markets to U.S. farmers and ranchers. Sound agreements must be reached in other key sectors, such as telecommunications, banking, insurance, intellectual property rights, and Government procurement markets. The most important decisions to date, involving 108 nations, are soon to be reached.

Without an extension of fast-track authority, the President must notify the Congress of his intent to sign a new GATT agreement by March 1, 1993, if the agreement is to be considered under current fast-track procedures. That deadline is approaching rapidly. Now is the most sensitive time for the negotiations.

Estimates of the worldwide economic benefits from a Uruguay round trade agreement have ranged from \$200 billion to \$1 trillion. Selecting a bipartisan Senate observer group to attend the GATT negotiations would send a meaningful message to the other GATT countries that the United States is intent on achieving a balanced revision of the GATT. Given the positive roles previous observer groups have played in arms control negotiations and other areas, a Senate observer group could be a valuable asset to our U.S. negotiators.

Mr. President, today I am asking the distinguished majority leader and the distinguished Republican leader to establish a U.S. Senate observer group to the Uruguay round GATT negotiations. I hope that such a group can be formed and I ask unanimous consent that my letters to the Senate leadership be printed in the RECORD at this point.

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

U.S. SENATE,  
Washington, DC, January 26, 1993.

Hon. GEORGE MITCHELL,  
Majority Leader, U.S. Senate, Washington, DC.  
DEAR GEORGE: I am writing to you and the Republican Leader to request that a select number of U.S. Senators be appointed to observe the continuing negotiations of the General Agreement on Tariffs and Trade (GATT).

As you well know, observer groups, such as the one for arms control, have been appointed in the past and have proven to be very useful. The establishment of a Senate observer group would demonstrate the determination of the United States to conclude the negotiations successfully. Since the Uruguay Round began in 1986, several of our colleagues have observed the negotiations, though not in any long-term formal capacity. Regular, first-hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

Current negotiations are at a critical juncture. A Senate Observer Group, in addition to the Advisory Group from the Senate Finance Committee, would provide the Senate an indispensable opportunity to assess the crucial final stages of negotiation on the Uruguay Round. Though it is impossible to predict the length of time required to complete these negotiations, it should take several months at the least.

A bipartisan Senate observer group would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revisions of the GATT. Our representation could prove to be a valuable asset to our own negotiators.

I look forward to your response.

Sincerely,

LARRY PRESSLER  
U.S. Senator.

U.S. SENATE,  
Washington, DC, January 26, 1993.

Hon. ROBERT DOLE,  
Minority Leader, U.S. Senate, Washington, DC.  
DEAR BOB: I am writing to you and to the Majority Leader to request that a select number of U.S. Senators be appointed to observe the continuing negotiations of the General Agreement on Tariffs and Trade (GATT).

As you well know, observer groups, such as the one for arms control, have been appointed in the past and have proven to be very useful. The establishment of a Senate observer group would demonstrate the determination of the United States to conclude the negotiations successfully. Since the Uruguay Round began in 1986, several of our colleagues have observed the negotiations, though not in any long-term formal capacity. Regular, first-hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

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to the Advisory Group from the Senate Finance Committee, would provide the Senate an indispensable opportunity to assess the crucial final stages of negotiation on the Uruguay Round. Though it is impossible to predict the length of time required to complete these negotiations, it should take several months at the least.

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I look forward to your response.

Sincerely,

LARRY PRESSLER,  
U.S. Senator.

#### REYNOLDS THANKS FOR SERVICE TO EDUCATION

Mr. PRESSLER. Mr. President, I am pleased today to pay tribute and thank an outstanding South Dakota educator and my good friend, Mr. John Reynolds, for his tremendous contributions to South Dakota's higher education system.

John served as president of National College in Rapid City from 1982 to 1984. In 1984, he was named president of Huron University in Huron, SD. He took over the reins of a 110-year-old university that was on the brink of closing its doors because of low student enrollment and financial difficulties.

Under John's leadership, the turnaround of Huron University was almost instantaneous. After a decade of budget deficits, John engineered a university budget that began having a positive cash-flow. Through John's careful planning and foresight, Huron University is now in good fiscal health.

During John's tenure, Huron University more than rebounded. Indeed, its stamp of excellence was felt in all corners of the globe. Huron University now operates campuses in Tokyo and London, the only American university with campuses on three different continents. In addition, the university expanded to Sioux Falls, SD. This expansion, coupled with a streamlining of the curriculum, has caused enrollment to grow from 280 students in 1984 to more than 1,200 this year—a 400-percent increase in enrollment in 8 years. In that time the university has made the transition from near extinction to world-renowned excellence. It is a vibrant, thriving center for learning. Much of the credit for this extraordinary transformation goes to John Reynolds.

Recently, John announced his resignation from Huron University to accept a similar position at Tri-State University in northeast Indiana. South Dakota's loss surely is Indiana's gain. John is a remarkable person whose friendship I have appreciated over the years. His advice on Federal financial aid programs has been invaluable to me. He will be missed by all Huron students and all South Dakotans who had

the opportunity to know him. His presence will be missed, but his contributions to the university will be felt in the years to come. We all wish him the best in his new position.

#### TRIBUTE TO DR. RICHARD CHASE

Mr. COATS. Mr. President, true leadership is a rare thing—but it is essential to the institutions we care about. When we find it, it ought to be celebrated. When we lose it, it ought to be missed.

Dr. J. Richard Chase has been that kind of exceptional leader as president of my alma mater, Wheaton College in Illinois. His retirement is an occasion for regret, and an opportunity for many of us to express our thanks.

Wheaton College exists to fulfill a Christian mission—to stand "for Christ and His Kingdom." It defines that purpose through its passion for intellectual excellence and individual character. Dr. Chase has been a faithful steward of that vision, bringing unique talents to a high calling.

He leaves Wheaton College more financially secure. He oversaw an aggressive program of campus building and renovation. He undertook long-range planning to guide Wheaton into the next century. He expanded academic programs. He won a number of professional awards. He has been an educator of influence, and a respected Christian leader.

This legacy has earned the appreciation of parents, alumni, and teachers. Most of all, it has better prepared Wheaton students to serve a world in pain.

#### TRIBUTE TO PETE SHIELDS

Mr. METZENBAUM. Mr. President, our Nation has lost a tireless fighter in the battle against handgun violence. Pete Shields—a founder of Handgun Control, Inc.—died of cancer earlier this week.

A personal tragedy prompted Pete to lead his public war against handgun violence.

The horrible death of his eldest son changed Pete's life. Nick Shields was senselessly murdered in San Francisco in 1975—a victim of a random shooting.

Pete did not allow the anger and grief over the loss of his son to defeat him. Instead, he set out on a journey to save other lives by fighting to reduce the kind of violence that had claimed his son.

Starting out with little money and a small staff, Pete Shields launched Handgun Control, Inc. He knocked on doors, visited State legislatures, and pounded the pavement in Washington.

And he watched his organization grow to 1 million members.

He claimed his share of legislative triumphs as well.

Pete and I worked together in the fight to outlaw cop-killer bullets and undetectable, plastic handguns.

He was also instrumental in getting a ban on the import of Saturday night special parts and a ban on the sale of Saturday night specials in the State of Maryland.

One item on Pete's agenda remains unfinished. He was a strong advocate of a national waiting period for handgun purchases. In the last Congress I sponsored the legislation which is known as the Brady bill. It was stalled at the end of the session, but things have changed since then.

We have a new President who favors the waiting period. I intend to introduce the bill again this Congress.

We will pass the Brady bill. And we'll do it during this Congress.

Even though he won't be with us to fight for the bill this time, Pete Shields will deserve a lot of the credit when it passes.

Mr. President, I yield the floor.

#### TRIBUTE TO NELL SANDERS ASPERO

Mr. SASSER. Mr. President, I rise today to pay tribute to a pioneer within the legal profession, Nell Sanders Aspero. Nell Aspero has practiced law in Tennessee longer than any other woman—50 years.

Nell Aspero was among the first women to practice law in my State. Through her long and effective work in the legal profession, Mrs. Aspero has played a major role in establishing women as equal partners in the bar.

In recognition of her fine work and outstanding contribution to her profession and her community, the House of Representatives of the State of Tennessee approved a resolution that I wish to present to the Senate today for inclusion in the RECORD.

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

#### STATE OF TENNESSEE—HOUSE JOINT RESOLUTION NO. 77

Whereas, it is fitting that the elected Representatives of the State of Tennessee should pay tribute to those dedicated professionals who have been pioneers and innovators within their chosen fields; and

Whereas, a trail blazer within the legal profession, a pioneer woman lawyer, an exceptional role model for young people and a singular lady of courage and purpose: Nell Aspero can be aptly described by each of these platitudes; and

Whereas, during an exemplary legal career which has spanned five decades, Mrs. Aspero has battled and overcome the forces of prejudice and chauvinism to prove her mettle as an attorney of brilliant talents and uncommon diligence; and

Whereas, Mrs. Aspero abandoned a lucrative career as a piano instructor in 1936 to begin her studies in the law at the University of Tennessee where she was the only female student; and

Whereas, when she passed the bar in 1938 only two women were practicing law in Memphis; she became the first female attorney from Memphis licensed to practice before the U.S. Supreme Court; and

Whereas, in 1942, Mr. Aspero organized the Women's Section of the Bar Association of Tennessee—the first organization of female lawyers in Tennessee; and

Whereas, the Alexander McCullar chapter of the Daughters of the American Revolution recently honored Nell Aspero on the occasion of her fiftieth remarkable year as an eminent member of the bar; and

Whereas, a native Memphian, Mrs. Aspero holds degrees from Southwestern College, Memphis State University and a law degree from the University of Memphis, which later merged with Memphis State University; and

Whereas, every female attorney practicing law today owes a great debt to Nell Aspero, for in many different ways she fought battles against prejudice, chauvinism and arrogance to gain social and professional equality for women; and

Whereas, because of her herculean and unremitting efforts female attorneys have earned acceptance as competent and contributing members of the bar and Mrs. Aspero has forged a permanent place of honor for herself in the annals of legal history in Tennessee; Now, therefore,

*Be it Resolved by the House of Representatives of the Ninety-Sixth General Assembly of the State of Tennessee, the Senate concurring, That this Assembly hereby pauses to honor and commend Nell Aspero on her exemplary fifty-year career as an attorney of the first order, reflecting fondly upon her many indelible contributions towards professional equality for women in the practice of law, and extend to her our best wishes for continued success in her future endeavors.*

Adopted: February 16, 1989.

#### COMMEMORATING THE LIFE OF THURGOOD MARSHALL

Mr. JOHNSTON. Mr. President, I rise today to mourn the death and commemorate the life of Supreme Court Justice Thurgood Marshall, who may have been the greatest lawyer of the 20th century, and who was certainly one of the truly crucial figures in the long civil rights struggle. Every American should be appreciative for the contributions he made as an advocate and as a Justice on the U.S. Supreme Court.

We know great attorneys by their records and great judges by the eloquence and passion they bring to their position. By both of these measures and in both of these professions Thurgood Marshall was without peer. As an attorney he led the fight against segregation which culminated in the Brown decision, one of the landmark legal decisions in our history. He also won 29 of 32 cases he argued before the Supreme Court, a remarkable record that bespeaks his brilliance as a jurist. As a Justice, he was a powerful voice for the disadvantaged, and invested all of his opinions with the moral force and rhetorical acuity for which he was famous.

However, if Thurgood Marshall's accomplishments and significance were limited to the rarefield air of legal discourse, he would not now occupy the critical position on the landscape of American history that he does. Great

American leaders have always challenged and persuaded the American public with a vision that went beyond the vagaries of public opinion to paint a picture of America more consonant with the lofty ideals upon which this country was founded.

Lincoln did this in his Gettysburg Address when he changed the purpose of the Union Army and altered forever the self-perception of a nation by insisting that the phrase "All men are created equal" means what it says. In accord, Thurgood Marshall dedicated most of his life to working and largely succeeding in delivering on the promise of Lincoln's words.

While Marshall would be the first to recognize that the war for the equality of all before the law is far from over, the tremendous positive changes that have transformed this country as a result of the battles he won, and the many lives that he touched in fighting them, are themselves the most eloquent testimonial to the courage and lasting impact of this great man.

Justice Marshall once said that he would like to be remembered as a man who did the best he could with what he had, and I stand before you today to state with unbridled emphasis that Thurgood Marshall was just that man.

#### RULES OF PROCEDURE OF SENATE COMMITTEES

Mr. FORD. Mr. President, I wish to remind each committee chairman that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules governing the procedure of the committee must be published in the CONGRESSIONAL RECORD no later than March 1, 1993.

#### COMMITTEE ON RULES AND ADMINISTRATION RULES OF PROCEDURE

Mr. FORD. Mr. President, I ask unanimous consent that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the Rules of Procedure of the Committee on Rules and Administration adopted on January 28, 1993, be printed in the RECORD at this point:

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

#### RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted January 28, 1993)

#### TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open

to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

#### TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall

constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

#### TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report of announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) or rule XXVI of the Standing Rules.)

#### TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

#### THE UNIVERSITY OF ALABAMA'S NATIONAL CHAMPIONSHIP IN FOOTBALL

Mr. HEFLIN. Mr. President, it is a grand understatement to say that I am proud to stand before the Senate today to warmly and heartily congratulate the University of Alabama's football team for winning the 1992 National Championship. By defeating the defending champions of the University of Miami in the New Year's Day Sugar Bowl in New Orleans, the Alabama Crimson Tide laid claim to its 12th national title in the program's glorious 100-year history. And the men from

Tuscaloosa did it in a game that will long be remembered by fans and alumni as one of the most memorable ever.

It strikes me that in talking about the tradition, spirit, and legacy that are Alabama football, much of what I will say will, by necessity, be an understatement: There is simply no way that mere words can capture the feeling and intensity with which Alabama partisans approach and enjoy their favorite sport. It really must be experienced. I am reminded of the quote attributed to Bill Shankly some years back, who said,

Some people think football is a matter of life and death. I don't like that attitude. I can assure them it is much more serious than that.

In Alabama, with its beloved Crimson Tide, it is indeed more serious than that.

Sports Illustrated is fond of pointing out that Alabama fans have been known to pray for the late, great coach Bear Bryant's resurrection, and that maybe, just maybe, with a national championship to call their own, these legions of devoted followers will finally let him lie in peace. But current championship coach Gene Stallings, at the helm for only 3 short years, says that he is happy to have the Bear's legacy as a spiritual guide and inspiration, and appears to relish the challenge of laboring in the shadow of major college football's winningest coach ever.

If Bear Bryant defines Alabama's storied past, then Gene Stallings and his men define its glowing present and promising future. It is not uncommon to hear Alabamians today saying that all is right with the world again, not because Bill Clinton is now President, but because the Alabama Crimson Tide is once again the undisputed champion of college football.

What makes Alabama's victory in New Orleans and the unanimous championship vote the team received especially sweet is that few people gave the Tuscaloosa boys much of a chance of topping the fearsome Hurricanes of Miami. Alabama had clearly been the team of the sixties and seventies, with national championships in 1961, 1964, 1965, 1973, 1978, and 1979, along with several finishes in the top 10 and Southeastern Conference championships. Miami had just as convincingly dominated the 1980's, with four national titles. They boasted the Nation's longest consecutive winning streak and 1992's Heisman Trophy-winning quarterback. The stakes were never higher. It was the kind of dream matchup that doesn't happen often, one that bowl officials relish. Both teams were undefeated in 1992, but Miami was ranked first, Alabama second, and the sports prognosticators, ESPN media types, and perhaps most vocally, the Miami players themselves, saw no way for underdog Alabama to stop the team of the eighties from quickly establishing itself as the team of the nineties.

The men in crimson had other ideas, however, and so did the thousands of fans who rolled into New Orleans to paint the place red. They dominated the game from beginning to end. Alabama's defense, made up of players as much fun to watch as an explosive pro-style offense, ranked first in the Nation, held the Hurricanes to just 48 yards rushing, 42 of which came on a final possession that netted no points. Alabama also forced four turnovers, including one of the best forced fumbles—actually a steal—I have ever seen. His team trailing 27-6, quarterback Gino Torretta finally completed a long pass. Wide receiver Lamar Thomas hauled it in and began running toward what apparently was going to be an 89-yard touchdown. But it was not to be. In one of the best displays of pickpocketing this side of Bourbon Street, as one sports writer put it, Alabama defensive back George Teague ran down the receiver, and at Alabama's five-yard line, took the ball from behind for himself. The whole thing, including what would have been the longest completion in Sugar Bowl history, was nullified by a penalty. The fat lady had sung. The final outcome was Alabama 34, Miami 13. "Dixie's Football Pride," as Alabama's team came to be known in the 1920's, had won its first national championship in 13 years. Yes, to Alabama fans, things were once again right with the world.

Not to bore my colleagues with a lot of mind-numbing statistics, but to even begin to understand how Alabama's football program came to be "Dixie's Pride," one has to look back at some of the incredible history involved. Alabama's is a program of superlatives. It boasts a national record 45 bowl appearances; national record 25 bowl wins; national record 23 seasons with 10 or more wins; national record 37 seasons with 1 or no losses; 12 national championships, second only to the Fighting Irish of Notre Dame; the best winning percentage during the past 75 years; a Sugar Bowl win which was the school's eighth consecutive; and has appeared on live network television 143 times, again, second only to Notre Dame. Such football legends as Joe Willie Namath, Bart Starr, Ken Stabler, and Lee Roy Jordan are among those who have worn the simple crimson and white uniform. But Alabama has never been known for its individual standouts, though there have been many. Rather, it is usually the great teams that we remember, or great moments and plays, such as the goal line stand against Penn State that won the 1978 national championship.

Alabama is the only team to have played in all four of the big four bowl games—the Rose, Cotton, Sugar, and Orange—and win all of them at least twice. In finishing 13-0 in 1992 and claiming the national title, Alabama joined the 1971 Nebraska and 1984

Brigham Young teams to win 13 games and be ranked No. 1 at the end of the season. Since the Associated Press poll started in 1936, Alabama has finished in the top 10 29 times and in the final 5 17 times, and has enjoyed a national record 14 undefeated, untied regular seasons. It is no wonder that Alabama fans and alumni demand so much from their beloved football teams: I cannot deny that we are a bit spoiled by success. I sometimes think that as difficult as my job is as U.S. Senator, it can be no worse than the demands placed on anyone who dares to accept the call as head football coach at the University of Alabama. At least we are guaranteed 6 years work upon our selections by the voters. Alabama's coach usually serves a probationary period of 3 to 5 years, shortened only by winning championships.

For decades, people outside Alabama have thought of Crimson Tide football and Coach Bear Bryant when the State would come to mind. I trust that people will now add Coach Gene Stallings to that realm of thought, for he has done a magnificent job at the Capstone since arriving there in 1990. He is committed to winning, to educating your minds, and to developing the gentleman-athlete. I salute and congratulate Coach Stallings, his excellent coaching staff, and his multitalented players for capping off Alabama football's first 100 years—its century of champions—with a national championship. The entire State is grateful for your hard work, determination, discipline, grit, class, and spirit. In every way, you bear the marks of true champions. And maybe Coach Bryant is now resting a little easier.

Finally, Mr. President, the folks back home would find me derelict in praising my alma mater's sports prowess if I left without saying to my colleagues simply, very simply, with pride, and with no understatement, "roll, Tide, roll."

I thank the chair.

#### TRIBUTE TO JUSTICE THURGOOD MARSHALL

Mrs. KASSEBAUM. Mr. President, today our Nation honors the life and work of Justice Thurgood Marshall, a man who left an indelible mark not only on the laws of our Nation but in the lives of millions of Americans—indeed, in the lives of us all.

Justice Marshall's lifetime of service was marked by both courage and controversy. As my colleague from Kansas noted yesterday, he is often remembered for his successful argument to the Supreme Court in the landmark case of Brown versus the Board of Education. That case in my hometown of Topeka, KS, ended the separate but equal doctrine in public education.

Like all who stand up for their beliefs and fight for what they believe is

right, Justice Marshall created both enemies and friends but he kept his focus on the law and on justice. He had an unshakable belief in the principle that all men are created equal and an enduring faith in the idea that right would ultimately prevail.

But "the right" is not always accepted, and progress is not self-executing. Thurgood Marshall's life showed us time and again that one person's conviction and dedication can make all the difference. Justice Marshall wanted to be remembered with these 10 words: "That he did what he could with what he had." We know that what he had was the strength of character and conscience common to the greatest reformers in American history.

You do not have to agree with all he said and wrote to come to the conclusion that this was a man who deserved the title of Justice. He loved the law, despite its tedium, and he loved America, despite its flaws. His faith in both is a rich legacy for all Americans.

#### ELEVATION OF EPA TO CABINET LEVEL

Mr. COHEN. Mr. President, I am pleased to join Senator GLENN in reintroducing legislation that elevates the Environmental Protection Agency to a Cabinet position.

I have been a strong supporter of this legislation for several years, as a co-sponsor of Senator DURENBERGER's original bill in the 101st Congress and of Senator GLENN's subsequent legislation in the 102d Congress. I regret that although the Senate passed this legislation in 1991, the Congress was unable to complete action on it before adjournment last year. I support the bill's reintroduction today because I believe the arguments for its passage are as compelling as they have ever been.

As greater environmental difficulties confront us, it is important that environmental considerations and background information be available at the highest levels. The inclusion of the Federal agency responsible for environmental protection during high-level Cabinet discussions sends an important signal to the American people that the pervasive environmental problems we face will be fought under the authority of the President of the United States and not just by a lower level administrator.

This legislation is more than symbolic, however. There are a number of issues involving environmental protection that will be discussed by the President's Cabinet, and I believe our policies will be more sound if the agency head responsible for that protection is present when important decisions are made.

Very difficult problems await our President's attention, including the depletion of the upper ozone level of the

atmosphere, global warming impacts, the cleanup of hazardous wastes at Federal facilities, the solid waste crisis, and the elimination of serious air and water pollution throughout the country. The current Environmental Protection Agency has important responsibilities in developing the means to address these problems, but they are also issues in which other Cabinet-level departments play crucial roles. As the Secretary of State discusses international negotiations on global environment and development issues, should not the Department of Environmental Protection be at the table to participate in the discussion? As the Secretary of Energy raises the issue of hazardous waste cleanup at our Federal defense facilities, should not the Secretary of Environmental Protection play an integral part in developing a plan to facilitate that cleanup? I firmly believe that the answer to those questions is "Yes."

The environment is crying out for help, as is evidenced by the significant problems we face—solid waste disposal, hazardous waste cleanup, air and water pollution, the degradation of our oceans, the loss of ground water resources and wetlands, the depletion of the ozone layer, and the greenhouse effect. The many challenges are complex and require attention at the highest levels, or the world we leave our children and grandchildren will be a sorry one.

As we talk about the need to focus increased attention on the significant environmental problems that confront us, let us remember to think about ways of putting those words into action. This legislation is one way of doing so, and I look forward to its enactment.

#### TRIBUTE TO JOHN BILL TRIVETTE

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to John Bill Trivette, the father of basketball's full-court zone press and dedicated community leader who died in January at age 75.

Mr. Trivette coached at Pikeville High School during the 1940's and 1950's, a time often referred to as the golden era of high school basketball in eastern Kentucky.

Trivette's power on the court was known throughout Kentucky. During the 17 seasons he coached, he led his teams to 7 region championships and won 427 games. However, it was his diamond press, the forerunner of the famous 1-2-1 press, which brought him great admiration and respect from basketball enthusiasts.

Trivette's love for basketball was second only to his dedication to the students he coached. In each of his players he instilled the importance of sportsmanship, even when the score favored the opposing team. To many

former Pikeville High School basketball players, Trivette is a hero.

Today I honor John Bill Trivette and the many things he did for Kentucky basketball, his community, and the young people he influenced. He truly was one of Kentucky's finest citizens.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

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

[From the Louisville (KY) Courier-Journal, Jan. 7, 1992]

#### PIKEVILLE SAYS MOUNTAINOUS GOODBYE TO TRIVETTE

(By Pat Forde)

PIKEVILLE, KY.—The low roar of coal machinery emanating from the adjacent hill did not drown out the preacher's words at the burial site of John Bill Trivette.

No. The sound was more of a backdrop, an apt mechanical melody accompanying the human voice's harmony, as they laid this product of the mountains to rest. It was a final communion of man and environment, a mournful flashback to when both were vibrant icons to the people of this town.

Forty years ago, coal was king in these mountains. So was high school basketball. And so, therefore, was Trivette.

The father of the full-court zone press, winner of 427 games and seven region championships in 17 seasons at Pikeville High School, he was a larger-than-life character during the 1940s and '50s—the golden era of mountain basketball in Kentucky. Back then there always would be a thriving coal industry, and there always would be a "King" Kelly Coleman, Carr Creek High School, a John Bill Trivette to galvanize the mountains' basketball fans.

Now the coal jobs continue to disappear, and the low roar from the adjacent hill sounds a bit hollow. And now they bury legends such as Trivette, dead at age 75, on the side of a mountain, under skies as gray and cold as a tombstone. The golden era seems far away.

"It was the heyday of Kentucky basketball, no question," said Ken Trivette, John Bill's son and the current head coach at Clark County High School. "It was before TV became so powerful in people's lives, and the community and the school were one. It was like God, family and basketball."

Trivette's extended basketball family gathered for his interment yesterday after cancer claimed him on Sunday. No fewer than 37 former players, managers and assistant coaches joined other friends and relatives at the pretty mountainside cemetery called Johnson Memorial Park to bid him farewell.

They are a graying, balding bunch now, far different from how they looked when they formed teenage bonds as Trivette's players. But they remember those times—and their coach—with piercing clarity.

They recalled a rigid disciplinarian "with steel gray eyes that could bore right through you," as one ex-player said. Yet they also recalled a man who would let the town's youngsters into the locker room to hear his pep talks to the team.

"It was like a religious revival," Ken Trivette said. "I realize now he was getting the young ones ready."

He got the young ones ready in other ways as well. John Bill would buy basketballs for

the kids too poor to afford their own—then make the rounds to verify that they played with them in the summer.

"I made sure every one of my kids had a goal at home," Trivette told Dave Kindred in his book, "Basketball: The Dream Game in Kentucky." "He had a ball, and I checked on him every day to see that he threw that ball at that goal. We couldn't win on just three months' practice. I sold them on the idea that it's just as easy to be a winner as a loser."

The men gathered to honor him yesterday were winners from all walks of life: a judge, a doctor, a lawyer, a retired principal among many others.

"Only two coaches I had knew more about basketball than I did: John Bill and Adolph Rupp," said Dickie Prater, perhaps Trivette's best player. Prater was a 1950 Pikeville graduate who played a year for Rupp at the University of Kentucky before joining the army, then finishing his career at South Carolina.

"One of the things I think young people today are missing is a hero," Prater added. "I always felt John Bill was my hero and my friend."

Said Bill Duty: "I couldn't play, wasn't good enough, but he took me everywhere they went. Everything I ever learned about coaching I learned from John Bill Trivette."

Duty went on to become a state-champion football coach at Elkhorn City.

Wayne T. Rutherford, Class of '56: "He learned you how to be a winner, and how to take a loss and keep your chin up. He didn't want any sportsmanship trophies, but he didn't allow any fighting."

Of course, the old players also remember when Trivette devised his "diamond press," the forerunner of the 1-2-1 press made famous by UCLA coach John Wooden. It came after an untalented Johns Creek team had used non-stop pressure on the ball to disrupt Pikeville's offense in a game in 1955.

"They couldn't play a lick, but they wouldn't let anybody else play a lick," Buddy Elkins, Pikeville Class of '57, said of Johns Creek.

"He went back home and started doodling, and he came up with the full-court press," Duty said. "A lot of people don't believe that, but we were in Louisville one year at the Brown Hotel for the NCAA championships, and John Wooden himself told us that when he coached in Dayton, Ky., and up in Indiana, John Bill Trivette gave him the idea of the press."

The 1957 Pikeville team, a short quick group, employed that press to its fullest. And it overcame a severe flood that forced it out of its home gym almost all season.

Pikeville became a band of gypsies, traveling to Paintsville or Virgie or anywhere it could find a gym for practices and games.

And the travel was not exactly first-class. "We had three cars and 20 people," Elkins said.

Nevertheless Pikeville rolled into the State Tournament ranked No. 1 and the co-favorite with Lexington Lafayette to win the Sweet Sixteen. The Panthers arrived in Louisville full of a mixture of confidence and amazement.

"I remember going into Freedom Hall and one of our players said, 'You could sure plant a lot of corn in here,'" Ken Trivette recalled. "We were sort of in awe of that arena."

Pikeville overcame it to reach the semifinals. The exhausting season caught up with them there, however, and the Panthers lost to eventual champion Lafayette.

They rallied to win the consolation game, but the memory of that semifinal loss still

burns in the minds of the players on that team.

"When you go down there No. 1, you're supposed to win it," said Howard Lockhart, who went on to play for the University of Pittsburgh.

Ken Trivette has his chin in his hand, and his vacant eyes show that he is far from the wake in the basement of Pikeville Presbyterian Church.

He's 8 years old again, holding his dad's hand and walking onto the Freedom Hall court to watch this famous man accept the third-place trophy from the 1957 Sweet Sixteen. It will be the closest John Bill Trivette ever gets to a state title.

Ken Trivette blinks and comes back.

"I wouldn't trade my childhood for any in the world," he said. "It was like Coney Island every day. High school basketball then was exciting beyond . . . well, people who lived it know. It's something you just don't forget.

"From Western Kentucky and Cuba to Eastern Kentucky and Maytown, they were all part of a golden era."

#### SPEECH BY MARK HELPRIN

Mr. GORTON. Mr. President, on October 15 of last year at the U.S. Military Academy, Mark Helprin, an award winning novelist, a columnist, and a close personal friend, gave a speech to the cadets entitled "At Rest Between the Wars." It is one of the most remarkable testimonies with respect to the role of the military in our lives as a nation and his as an individual I have ever read.

I ask unanimous consent that at this point Mr. Helprin's speech be printed in the RECORD.

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

#### AT REST BETWEEN THE WARS (Speech by Mark Helprin)

When I was a boy, a period that, according to my wife and daughters, extends to this very day, I used to play on the rows of cannon near the parade ground. I lived on the opposite bank of the Hudson, Croton, and Cold Spring.

And I can tell you on my authority as a local boy that you are sometimes misinterpreted. For example, not too far from here is an emery mine that used to be run by two ancients who loved dynamite and were afraid of shovels. As a result of their loves and fear, our days were punctuated by huge explosions, for which the most common explanation was, "It's the cadets at West Point, in artillery class . . . wasting the taxpayer's money." Well, as you will find out, there are far better ways to waste the taxpayer's money, some less noisy, some even noisier.

This valley itself has seen many battles, beginning almost four hundred years ago, and when the battles were elsewhere its people sent its sons in great number. There are many old soldiers outside these walls, and always have been.

Once, in the Eisenhower years, when I was, as usual, a boy, I was sitting across from two veterans of the Great War, in a railroad car at Harmon, waiting for the connecting train from upriver. When finally it pulled in, a hundred tiny military school cadets surged across the platform and poured into our car like an invasion of extras from *The World of*

Oz. They were absolutely mesmerizing. They hopped from seat to seat, squealing like pink-cheeked organ grinder's monkeys. Although only in the first, second, and third grades, these midgets, ladies and gentlemen, were wearing your uniforms. Each and every one of them was guilty of impersonating . . . a cadet.

Seized with the impression that West Point was facing one of the major crises of its history, one of the old men looked at the other, and said, "Oooooooooooh! I sure hope we don't have another war!"

His friend was slightly more sanguine. Perhaps he thought that height has no bearing on military prowess. After all, think of Napoleon. Still, he asked, "Do you think General MacArthur knows?" to which he received the reply, "Who would have the heart to tell him?"

If only you were misunderstood more often with such good will and affection, but that is not the case, and this I know because I often speak in defence of military virtue, something now seldom understood and almost always maligned.

For someone in my walk of life to take this position, especially now, when it is widely believed that you are no longer needed, when generals and admirals are falling by the wayside, is not the epitome of discretion. But, quite frankly, I don't give a damn.

For even whole nations can be wrong in their sureties. Even whole nations, in a craze of fashion, can squander their carefully nurtured strengths. The American military is now everything to anyone except the one thing that it should be to everyone. It is a well from which to draw money for new social initiatives. It is an adjunct of the DEA. It is a teacher corps. It is a hurricane fighter. It is a battleground of feminism. It is an agency for the environment. In its reduction it is a symbol of the New World Order. It is a peace monitor. It is the solution to the problem of the deficit. It is the first refuge of a budget cutter. It is an electoral scapegoat. It is part of an industrial policy.

Anyone is free to make use of it in any way. The only view of it that raises eyebrows is that it should be none of these things, that its purposes, plain and simple, are to defend the interests of the United States, to be prepared for war, to deter it, and to win it. And this is something you cannot do if you are under strength, under armed, poorly funded, and rearranged to suit the notions and perform the tasks of every special interest group from Bar Harbor to Honolulu.

The forces that would dilute your purpose have been present since the creation. But now they are ascendant: they have risen like rockets. And the reason for this is the collapse and disintegration of the Soviet Union. Even before the echoes of the fall were silenced came the consensus, the certainty, the piety . . . that real war is a thing of the past.

Is it? Not two years ago, the United States led its traditional allies, its former enemies, and then some, almost a million strong, into what was in many respects the greatest single battle in the history of the world. I don't know many of you who have been in the presence of a main battle tank, or, if you have, what you felt. I have an infantryman's view of tanks, that is to say that I've never been exactly comfortable with them. If you're on one side of a village and a tank arrives on the other side, you feel it before you hear it. You feel it in your solar plexus and in the soles of your feet. You would never think that something so massive could be so agile as it smashes through walls and pulver-

izes brick, the things you thought you could hide behind. And when it slews its gun, the sound of the turret turning is like the sound of death itself.

That's one tank. In the Gulf War, columns of armor rolled across the desert for days and days, so vast and long that the dust they raised could have been seen from the moon.

Twenty years ago, as an overage infantryman in the Israeli army, I got my first taste of tanks, half-tracks, AFV's, and F-4's that passed so low over my head I was afraid my clothes might catch fire. These things always make me snap to attention. I can't put them out of my mind. And I could not put out of my mind the fact that, a few years ago, much of the Soviet harvest went to waste because the rolling stock that would have taken it to market was engaged in moving 70,000 tanks, AFV's, and artillery pieces east of the Urals, where, under the terms of the MBFR Talks, everyone would treat them as if they did not exist. But they're still there.

I cannot put out of my mind the hardships and demoralization of the former Soviet peoples, the hyper-inflation, the dying economy that will go nowhere but down, the half-dozen little hot wars that, like the wars in Spain and Abyssinia, inoculate against the rejection of violence. I cannot put out of my mind the Russian army, still possessed of a vast array of nuclear and conventional weapons, and strategic stores of food and war materiel.

Though it is true that it has been temporarily crippled by the loss of its strategic depth and the rot of its echelons, it is still intact. Many Americans imagine that it has ceased to exist, but it has 50,000 main battle tanks to America's 16,000, 43,000 artillery pieces to our 7,000, and it still produces modern equipment faster than we do. According to the 1992-1993 *Military Balance*, 4,200 main battle tanks have been added to the existing inventories of Russia, Byelarus, and the Ukraine since the demise of the Soviet Union.

If the United States produced this many tanks in a similar period, critics from many quarters would say that this was provocative, dangerous, and insane. They don't know the facts, and they don't want to know them. That is, I believe, because the facts are unpleasant, and the mass hallucination of a permanent peace is, to the contrary, very comfortable.

The Russian army alone is still formidable, and it is built around its memory of compressing into a tight spring that then, shedding its rage, decompressed and threw back Napoleon, Deniken, Kolchak, Hitler. That memory, that capacity, of an army with its back to the wall in the midst of a suffering nation, is, I submit to you, the most dangerous thing in the world today.

What do we see if we look for a counterweight to balance the instability of the shattered East Bloc? We see Europe breaking into smaller and smaller pieces while chasing the illusion that it can achieve political unity by means of an economic program that virtually no one wants. We see chronic unemployment in many countries, alarming debt, monetary chaos, and rapidly expanding fascist parties that may soon claim one voter in ten in the heart of the continent. Underlying all of this is a remarkable institutional instability not seen in so many countries at once since the immediate post-war period.

Deeply absorbed in dismantling its security apparatus, the West responds to the war in Yugoslavia by sending the world's two

most deadly ineffective diplomats, Lord Carrington and Cyrus Vance, to hold meetings and have discussions. Cyrus Vance would call a meeting if his pants were on fire. He should have resigned long ago if only because of the atrocities against which he has pitted nothing but self-important impotence.

Positioning himself falsely to the right of President Bush, Governor Clinton recommends air strikes on the Serbs. One has to be very careful in such a place and in a context that can lead to far wider war, but the governor's view of Europe does not admit of this danger, which is why he can blithely ignore it. Even if greater risks did not exist, intervention would be, to paraphrase T.E. Lawrence, like cutting soup with a knife, and, quite simply, we've done enough of that in Vietnam and in Lebanon.

In its unrequited love affair with public opinion, NATO is begging for more responsibility in Central Europe, in the former U.S.S.R., and in the Middle East, while simultaneously and rapidly sloughing off its military capacity. A better initiation to disaster has never been invented.

Taking U.S. forces from Europe—Governor Clinton's plan is to leave less than 25%, and the administration's not much better—is like lifting the control rods from a nuclear reactor. This false economy removes the customary constraints from forces that can rapidly assume a life of their own. Ethnic troubles are the least of them. The real danger is when countries with unstable politics and weak governments find themselves in a clash of irreconcilable national interests. What makes this prospect merely a thing of the past? Nothing. Clearly, nothing.

I ask you this: Had the United States left behind 10% of its World War One expeditionary forces (that is, about 200,000 men) to garrison Europe during the Twenties and Thirties, would the allies have found it impossible to enforce the disarmament provisions of the Treaty of Versailles? Would Hitler have marched into the Rhineland?

After the Second World War, we made up for this mistake, and our simple resolve worked to keep the peace in Europe for nearly half a century and to contain Soviet expansionism, thus binding the Soviet Union to the logic that brought it down. It could not produce, so to survive it had to conquer. When it could not conquer, it could not survive.

Some people will tell you that it collapsed entirely of its own weight. 'All your efforts were wasted,' they will say, 'your preparations alarmism, your diligence obsession, your expenditures unnecessary, your sacrifices for naught. There was never any danger. You were just snapping your fingers to keep the elephants away.'

You have to give these people credit. Long before the disintegration of the East Bloc they did insist that the threat was fiction, or that, to the extent that a threat did exist, it was purely defensive and of your own creation. They told you that the gentle and bewildered Red Army could not have invaded Europe because it was too busy as it, to quote the journal *International Security*, "repaired barracks, built dining halls, set up military posts, camps, and sports field."

They told you that the Warsaw Pact's 68,000 tanks, twice the number of NATO's, actually were a disadvantage, being so diminutive that their operators had to be less than 5'3" tall, and that, because of a satanic lack of ventilation, these midgets, to quote the same journal, "were asphyxiated or went into shock."

But there are even worse ways to die, and I quote: "The automatic loader on the T-72 'grabs' crew members and rams them into the gun's breach." Those of you who might want to go into armor can forget it. Even at the height of the Cold War there was nothing for you to do, because every time a Soviet tanker entered his vehicle it was like stepping into a Cuisinart.

Apart from the fanciful view of no threat was another line of thought that managed somehow to co-exist with what appeared to have been perfect confidence in our safety, and that was that we were doomed. "Why fight the tide of history?" we were asked. For if we did, we were told, there would be no history. There was nothing to worry about, and yet the situation was hopeless. We were just paranoids, but we were facing the inevitability of history. Though the strange luxury and inconsistency of these positions ran together for decades, never for a moment was the threat not real, and never for a moment was it invincible.

Rule of thumb: When generals become colonels, colonels majors, and air force bases industrial parks, the fighting cannot be too far ahead.

Am I saying that war comes after swords are beaten into ploughshares? Yes, I am. I am saying that we are at rest between the wars. I am saying that, God help you, you have a future.

What it will be will depend in large part on the extent to which you are neglected, and I assure you that you will be neglected. I assure that the United States will enter a future war with insufficient weaponry, numbers, materiel, and training—it has happened before—and that because of this some of you in this room may give up your lines.

You will have done so in consequence of the mistaken belief that to hold power is to abuse it. Those who subscribe to such a tenet read history without making distinctions. They think they can abolish war solely by abdication, and are never sufficiently wary of others who see in transcendent acts only opportunities to exploit.

Truly moral but less showy is the impulse not to abolish war but to contain, avoid, and minimize it. This requires, among other things, the willingness and ability to fight, which may seem like a contradiction but isn't. It does illustrate, however, why a uniformly pacific view often creates conditions that lead to war: if you refuse power, as the British and Americans did in the interwar period and as some would have us do now, you will not be able to contain or suppress the anarchic or sometimes purposeful acts that lead to the great wars. In this, as in so many other things, perfection is the enemy of the good.

Once, in Rome, I had a conversation with an American who feared a coup from within your ranks. I thought, how odd. Following the dictates of civilian authority, the military took ten years in Vietnam to lose a war that, risking Chinese intervention, could have been fought to its conclusion in six months. (If you think that's optimistic, I refer you to the Gulf War and remind you that Hanoi is 60 miles from the sea.) For a decade the armed forces accepted failure and death in service of the principles of civilian rule, and then in restaurants in Rome and at dinner parties in Manhattan you are told that you are the main threat to it.

But before you overthrow that principle you will accept virtually anything. You will accept redefinition. You will accept marginalization. You will accept failure. You will even die. For a long time now, pop-

ular culture has ridiculed this kind of belief and devotion, and though you risk disillusion and disappointment, do not envy the glib and the uncommitted. Even simple, tongue-tied, anonymous men live better lives than they do, for those who believe in nothing, are nothing.

Having decided that you are not very necessary anymore, the country will now punish you, acting, among other reasons, on its contempt for what it perceives as interservice rivalry. Had this been done at the start, the navy would not have aircraft carriers, because flying was the domain of the army. After the air force split from the army, the army would not have gone into helicopters because it was no longer in the flying business, and the air force would not have because it was not in the business of vertical envelopment. Why should the navy have ballistic missiles, as that's the job of the air force, or is it the job of the army, as the air force is not in the artillery business?

And the marines! What an outrage! They use boats, planes, and armor. They just can't let the rivalry rest. Obviously, they've got to be the first to go.

The same impulse has spawned proposals for consolidating the service academies and civilianizing their faculties, ostensibly because of a lack of Ph.D.'s on the current rosters. It would seem to me that the best way to solve this problem, absent a desire to punish the army, would be to send out even more officers to get doctorates.

I went to college and graduate school in a place that was to Ph.D.'s what the Everglades are to alligators. One of the faculty members, David Riesman, was the Arnold Schwarzenegger of doctorates, having earned four of them. But I found that the professors to whom I gravitated and from whom I learned the most were those whose learning had been annealed in the fire of war—the refugees who had seen their families perish, the field surgeons, the bomber pilots, the resistance fighters, the professor who made his way to class on one leg that was real and one that was of wood.

I sought them out not just because of their calm and their humility, their great wisdom, and all that they had seen and done. I sought them out because they had the light of survival in their eyes.

Your facility is rich in such men. Not all of them may have Ph.D.'s, but my reading of history tells me that the army has done pretty well up to now without indexing itself to the values of the academic world, especially as those values are currently expressed in the merciless rhythm of political correctness. Critics may say that army teaching army is just another instance of the legacy of war being passed from one generation to another that once again will know war and know in its bones what to do when war comes, and I will say to them, you're goddamned right.

Though some who may not fathom the moral imperative of this may find it embarrassing, the purpose of the military academies is to train officers to lead the armed forces, and the purpose of the armed forces is to win wars and, with that unambiguous capability nothing like a bluff, to deter them.

Let me tell you a little story. I was in a field security group in the Israeli Air Force. I had been in the army, but was transferred into the Air Force, where they made me wear an army uniform. If you think that's confusing, consider that in Hebrew the word for "he" is "who," the word for "who" is "me," and the word for "she" is "he."

I was assigned to a base in the northern part of the country, in a forest that was a

major terrorist infiltration route. These terrorists, whom cowardly American newspapers call "fighters" even though they massacre civilians and kill five-year-olds by bashing their heads against rocks, used the forest to good advantage, as the Israelis relied on motorized patrols.

So, on my own initiative and, shall we say, "parallel" to orders, I extended the area of my responsibility, and used to go into the forest at night and in the day, alone, with my Uzi, extra magazines, and two grenades that I was not supposed to have. I had night vision equipment, too: It was called the moon. I worked only periodically and never when the sky was cloudy, but it didn't weigh me down, it was free, and it was beautiful. I remember standing on a mountaintop in the full moonlight, listening to the sound of wild boar moving through the forest below. In the distance I could see the lights of Haifa, and Tyre, and towns in Syria and Jordan. The land was dark, the folds of the mountains black, and the moonlight covered the Mediterranean and the Sea of Galilee with a silent and ghostly sheen.

Once, a few miles from base, near an Arab village called Jish (and when I got past it I'd say, "Jish!"), I ran into one of our armored patrols at about two in the morning. They trained their mounted machine-guns on me, and their arc light, and they said, "What the hell are you doing here?" I said I was doing exactly what they were doing, only I couldn't be heard and seen from two miles away. The commander wanted to know where the others were, and when I told him I was alone he said, "I thought you were an American, and you are. Americans are nuts!" I've never received a finer compliment.

By the way, the one time I took a daylight walk without a weapon, I was five minutes out of the perimeter when I heard the brush move and saw a wild boar emerge onto the road not three feet from me. These things are famous for wiping out whole groups of medieval pikemen and their packs of dogs, and there I was, in my commando sweater, remembering that it took an entire magazine to bring one down and another to kill it.

It had horrible, curly tusks, and it was as big as a Mercedes Benz. I prayed for an air strike, but nothing happened, so I said, "Hi boy! How are you? Jews don't eat bacon." You know what he said? He didn't say anything: he couldn't talk. But I was ashamed, and I decided to give only name, rank, and serial number. The problem was that I could never remember my serial number, I had no rank, and I just wasn't going to tell my name to a pig, so I remembered where I'm from, which is New York, and I said, "Hey! Drop dead!" And, you know what? He did. He had a heart attack, right then. . . . That may be a bit of an exaggeration. He did go away.

One cool blue day, I was walking in the forest, where, as far as I knew, no one from the army ever set foot, when I saw, although they did not see me, an Israeli Arab in full regalia, with a pistol on a Sam Browne belt, and a blonde woman in a bedouin checkered scarf. They were crouching in the brush, sketching the defenses of the base. He was describing to her things that he pointed out and that she then marked down on the paper.

The next thing they knew, I was standing ten feet away, pointing my Uzi at them and commanding them, in Arabic, to raise their hands into the air. But the old man, who had probably lived half a century before the day I as born, was not of the opinion that the game was over. He put his hand on the grip of his pistol, and he held fast.

Now, what was I to do? Every time I turned around I was reprimanded for one thing or another, and there I was, patrolling entirely parallel to orders. I knew what I would do in coming across a team of infiltrators, but this was a lot different, and I had not foreseen anything like it. The woman was undoubtedly a "tourist," and the old man was undoubtedly a citizen who lived nearby. Still, they had come miles through the forest and were sketching the defenses of what was called a "secret base," and what, after all, was my purpose? If he were to fight, I would have to fire a burst, to stop him from putting a bullet in me. She was actually holding on to him, standing slightly behind. Was I going to shoot—and possibly kill—two civilians? Certainly the enemy had satellite reconnaissance of our installation, but these people may have been watching the shift changes and the habits of the sentries. She was scared and she was beautiful. He, although he was threatening to shoot me, resembled my father.

I won't say what I did except to tell you that though I didn't harm them, the ending was not pretty. It was shrouded in uncertainty, and I have never come to terms with it. In no way, however, did any of this resemble the hypothetical discussions, occasioned by the war in Vietnam, that I had had with plenty of Ph.D.'s I had had the best training in hypotheticals that you can get, but when the question ceased to be hypothetical and was real, that training proved useless.

Before Congress civilianizes your faculty, it would do well to take a long look at the kinds of problems you will encounter, the difference between what is hypothetical and what is real, and the priceless value of learning from those who have been through the ordeals for which you are destined.

What I know of such things, compared to what they have seen, is nothing, and therein lies a tale that I would like to tell. I am frequently asked how it is that I, an American, served in the Israeli army and Air Force, and not in the military of my own country. The first part of the question is easy to answer. I point out the long tradition of Americans serving in the armed forces of allies—the Lafayette Escadrille; Faulkner in the Canadian Royal Air Force; E.E. Cummings and John Dos Passos in the Norton-Harjes Ambulance Corps; the Eagle Squadron; the Flying Tigers. I mention that before I served under another flag I reported to the department of State and formally swore an oath of loyalty to the United States, and to defend the Constitution. And I remind my questioners that Israel fought not only armies trained and equipped by the Soviet Union, but, sometimes, Soviet soldiers themselves. In that period, the United States and Israel worked very closely together; how closely I think is not yet fully a matter of public record.

To the second part of the question, I reply that though the men in my family have served, since our arrival there, with Pershing in Mexico, in the First World War, so many in the Second World War that the welcome home had to be held in a hotel, and that though one cousin, Richard, was a Navy ace in the Pacific, and another, Robert, died in his B-25 in August of 1942, and another, Hank, was wounded twice in Korea, and half a dozen of my uncles served in all the branches in World War Two, and my father came out of the war a major, that despite this tradition in which I was certain I would have a place, I did not serve.

If you think that it is easy to stand here in front of thousands of officers and future officers of the United States Army and explain

this, think again. But just as the heart of your profession is your willingness to give your lives in defense of your country, even, as the case has been, as you are mocked, reviled, and dismissed by those for whom you will die, the heart of my profession is to convey the truth, and what good is a profession without its heart?

Let me try to convey, then, what I have come to believe is the truth—or at least part of the truth—of a time that was over before many of you were born. I do so not to gain approval or to attain an end, but in service of illumination and memory, and I hope, as you will see, that you may be able to use the knowledge of my failure to clarify and strengthen your own resolve.

"Everyone" at the Republican Convention this summer was reading a book about Harry Truman. Yes, most of them knew Truman was a Democrat. I'm a Republican, and though I was not old enough to have voted in the election of 1948 except perhaps in Chicago—I was one—I would be proud to have voted for Harry Truman had he been running against anyone other than Abraham Lincoln or Theodore Roosevelt.

My conduct in the Vietnam era can be expressed by stating that although in the Israeli army I had, but for corrective lenses, a perfect physical rating for combat, here I was officially, legally, and properly 4-F. If I were Bill Clinton I would take 10,000 words to explain this and say nothing, but I'm not Bill Clinton, and I can get to the heart of it in eight: What I did was called dodging the draft.

I thought Vietnam was so much the wrong place to fight and that the conduct of the war was so destructive in human terms and of American power, prestige, and purpose that I was justified in staying out. What the existence of the re-education camps and the boat people, and the triumph of containment have taught me is that my political assessment was not all that I thought it was, and I have also come to believe that, even if it had been, I still would not have been released from honoring the compact under which I had lived until that moment, and which I then broke. I did not want to participate in a war the conduct of which was often morally ambiguous. Now I understand that this was precisely my obligation.

So you may imagine what I felt when I came to a passage on page 102 of David McCullough's *Truman*, explaining how Truman had volunteered in the First World War: "He turned thirty-three the spring of 1917, which was two years beyond the age limit set by the new Selective Service Act. He had been out of the National Guard for nearly six years. His eyes were far below the standard requirements for any of the armed services. And he was the sole supporter of his mother and sister. As a farmer, furthermore, he was supposed to remain on the farm. . . ."

"So Harry might have stayed where he was for any of several reasons. That he chose to go . . . was his own doing entirely."

Truman had five unimpeachable reasons not to serve, and he tossed them to the wind. Had he tossed them at my class at Harvard, I assure you, they would have been fought over like five flawless versions of the Hope Diamond.

His actions were all the more impressive when it is remembered that the First World War was far more brutal than the war in Vietnam, far more costly, and far more senseless. At least the war in Vietnam was fought in the context of a policy of containment that, later, was to triumph. Even were Vietnam not the best place to make a stand,

it was the fact that a stand was made that mattered. In contrast, the First World War was fought almost entirely for nothing. Though it is true that the country was more enthusiastic about it, that just drives home the fact, as did Vietnam, that you simply cannot know how things will turn out, and that a war may be right or wrong, opportune or inopportune, the proper time and place to make a stand, or it may not be, but that this is something to be determined in national debate and not in the private legislatures of each person with a draft card.

The United States might easily have overwhelmed North Vietnam but for the threat of Chinese intervention. Therein lay the checkmate, the nettle that never was grasped, that then became the source of the indecision, the moral ambiguity, and, eventually, our defeat.

We neither made quick work of the North nor extricated ourselves with grace, choosing instead a war of attrition for which we had not the heart. It was not just a tangle of good intentions and bad judgments that put us there in the first place. History put us there. It is understandable, even commendable, that we tried to stay, and also understandable and at times, I think, commendable, that we left. The truth is that the truth is divided.

Vietnam was the most difficult war we have ever experienced, because it required us to justify a continuing horror with an abstract vision of what our perseverance would yield, and we are neither an abstract nor a patient people. In the context of history as we now know it, it seems that, had we persevered, decades of struggle and suffering might have been obviated. But, still, that we were ambivalent did not alter the final outcome. Perhaps the world saw in our ambivalence that we are a nation that seeks not power, but the truth.

Of one thing in this regard, and one thing only, am I absolutely certain, which is that, in not serving, I was wrong. I began to realize this in 1967, when I served briefly in the British Merchant Navy. In the Atlantic we saw a lot of American warships, and every time we did I felt both affection and pride. One of the other sailors, a seaman named Roberts, was a partisan of the Royal Navy, and maintained that it was more powerful than our own. As I was a regular reader of the *Proceedings of the United States Naval Institute*, and had almost memorized *Jane's Fighting Ships*, I quickly, let us say, blew his arguments out of the water.

And then, in riposte, he asked why I was not in uniform. I answered with the full force of the rationalizations so painstakingly developed by the American intellectual elite. Still, he kept coming at me. Although he was not an educated man, and although I thought I had him in a lock, the last thing he said broke the lock. I remember his words exactly. He said: "But they're your mates."

That was the essence of it. Although I did not modify my position until it was too late, I began to know then that I was wrong. I thought, mistakenly, perhaps just for the sake of holding my own in an argument, that he was saying, 'My country, right or wrong,' but it was not what he was saying at all. Only my sophistry converted the many virtues of his simple words from something I would not fully understand until much later.

Neither a man nor his country can always pick the ideal quarrel, and not every war can be fought with moral surety or immediacy of effect. It would be nice if that were so, but it isn't. Any great struggle, while it remains undecided and sometimes even afterward,

unfolds not in certainties but in doubts. It cannot be any other way. It never has been.

In the Cambridge Cemetery are several rows of graves in which rest the remains of those who were killed in Vietnam. On one of the many days of that long war, I was passing by as a family was burying their son. I stopped, in respect, I could not move. And they looked at me, not in anger, as I might have expected, but with love. You see, they had had a son.

Soon thereafter, not understanding fully why, I was on my way to the Middle East, in a fury to put myself on the line. And though I did, it can never make up for what I did not do. For the truth is that each and every one of the Vietnam memorials in that cemetery and in every other—those that are full, those that are empty, and those that are still waiting—belongs to a man who may have died in my place. And that is something I can never put behind me.

I want you to know this so that perhaps you may use it. For someday you may find yourself in a terrible place, about to die from a wound that is too big for a pressure bandage, or you may find yourself in an enemy prison, facing years of torture, or you may find yourself, more likely, as I did, in a freezing rain-soaked trench, at four o'clock in the morning, listening to your heart beat like thunder as you stare into the hallucinatory darkness of a field sown with mines. You may speak to yourself out loud, asking, why am I here? I could have been someplace else. I could have done it another way. I could have been home.

If that should happen to you, your first comfort will be your God, and then you will have—believe me—the undying image of your family, and then duty, honor, country. These will carry you through.

But if, after you have run through them again and again, you have time and thought left, then perhaps you will think of me, and this day at the beginning of your careers. I hope it will be encouragement. For that I was not with you, in my time, at Khe Sanh, and Danang, and Hue, and all the other places, is for me now, looking back, a great surprise, an even greater disappointment, and a regret that I will carry to my grave.

#### CONFIRMATION OF DONNA SHALALA AS SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. PELL. Mr. President, yesterday the Senate confirmed the nomination of Dr. Donna Shalala as Secretary of Health and Human Services. The vote occurred without fanfare, following two Senate hearings—first by the Senate Finance Committee and then by the Senate Labor and Human Resources Committee, on which I serve. But I would not want the ease and swiftness of her confirmation to leave the impression that this was an ordinary nomination. It was not.

It was a nomination that demonstrates, in the most lucid terms, the priorities that President Clinton has determined will mark his Presidency. Improving the lives of both children and families, and individuals and groups in our society, is what the new administration is all about. And no one is better equipped to tackle these enormous challenges than Dr. Shalala, who has devoted her professional life to

educating and bettering the lives of children and young people, and to taking on challenges where others fear to tread.

Whether the issue is health care reform or welfare reform, Dr. Shalala will undoubtedly put forth the President's agenda forcefully, persuasively, competently, and with great enthusiasm. She impressed me as an extraordinarily capable person whose intelligence, forthrightness, and determination to be the very best will serve this Nation extremely well. I look forward to working with her toward our mutual goals in the years to come.

#### SPEAKING TO OUR BETTER ANGELS: THE VOICE OF THURGOOD MARSHALL

Mr. BIDEN. Mr. President, yesterday I walked over to the Supreme Court building to pay my respects to Thurgood Marshall. How fitting that this great lawyer and jurist should lie in state within that hallowed temple of law.

The law, it might be said, is the articulated conscience of a nation, and the greatest of lawyers are those able to speak not only to the institutions of the law, but able also to speak through them to the deepest convictions of a whole people.

Associate Supreme Court Justice Thurgood Marshall, who died last Sunday, was just such a lawyer, just such a leader, just such a man—a man, a leader, a lawyer who understood that the law is essentially a moral instrument dedicated, ultimately, to fundamentally moral purposes.

He understood that the local magistrate's court adjudicating neighborhood disputes and traffic violations; he understood that the criminal court struggling to achieve the ends of the law amid the cries of victims, the protests of the accused, the plea bargains, and the contests over life and liberty that crowd its docket; he understood that the civil court seeking to uphold the integrity of the contracts and agreements upon which the functioning of our social and economic lives depend; he understood that the appellate court assessing the allegiance to the law and the fairness of procedure in the lower courts; and he understood, finally, that the Supreme Court of the United States, measuring the application of the law against the simple but majestic standards of the Constitution—he understood that each in its own realm and all as a body, strive day by day—succeeding as a rule, failing on occasion, but always striving—to maintain, to enlarge and to enrich our national life within the moral framework of the law.

No lawyer in our history has built upon that understanding more effectively or more significantly than Thurgood Marshall—indeed, I believe

none has done as much to expand the moral range of our law and the moral life of our Nation, other than the great lawyer who preserved our Union and emancipated our entire Nation from the shackles of slavery. And it is entirely appropriate, as I see it, to link Thurgood Marshall with Abraham Lincoln—because I believe the historians of the future will view the 1954 Supreme Court decision desegregating our schools not only as the great monument to Thurgood Marshall's life, but also as our century's historic commitment to the emancipation proclamation; as our century's rededication to the proposition that all men, all persons, are created equal, in the eyes of God and within the framework of our law; as our century's restatement of the basic American premise, of the historic American promise, that opportunity shall remain the common inheritance of all Americans.

Mr. President, Thurgood Marshall played a large roll in the history of my own State. He was educated at nearby Lincoln University, PA, and his family roots still extend into Delaware—but more significantly, Delaware was one of the States involved in the historic 1954 school decision. Delaware's history of segregated schools is not, of course, a matter of pride to Delawareans today; but Thurgood Marshall's victory over the artifact of slavery, and Delaware's racial progress over the following four decades, have made him today a hero among all Delawareans.

For me—as a Delawarean, as a lawyer and as a U.S. Senator—his life has had an even more personal meaning, because he served as an inspiration to me, as to an entire generation, by demonstrating that the law can be a positive force for change. He reminded us that equality and justice must be our highest aspirations as a people, and his life was a reflection of the long struggle to secure these aspirations as the guiding principles of our Nation and our Government.

His appointment as the first African-American to serve on the Supreme Court of the United States reaffirmed the American principle that justice must truly mean justice for all, and during his distinguished tenure on the court, he brought his great intellect and strong passion to decisions which extended these principles to every facet of our society. Every American alive today and our posterity must be numbered among his heirs.

Mr. President, Thurgood Marshall has been called the greatest American lawyer of the 20th century, and that is a judgment I am confident history will confirm. He was not an orator in the customary sense of the word; he had neither the taste nor the time for oratorical elaboration. He spoke the language of the practicing lawyer and the careful jurist, but he spoke with the powerful, irresistible eloquence of the

confident, fully committed, profoundly moral man who believed that American law and the American people would comprehend and act upon convictions they shared with him.

It was his great achievement, not only to speak to what Abraham Lincoln called "the better angels of our nation," but even more, to make us believe in that mystic dimension of our selves and to acknowledge the justice of its commands. In doing that, Thurgood Marshall made his achievement our achievement, and there can be no more definitive testimony to his greatness. We will miss him, but we will never forget, never forsake, his counsel.

#### ORDER OF BUSINESS

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

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

Mr. RIEGLE. Mr. President, let me inquire: Is it appropriate for me to make a brief statement less than 5 minutes in length?

The PRESIDING OFFICER. Yes, it is.

Mr. RIEGLE. Then I ask permission to proceed and will proceed.

#### FACES OF THE HEALTH CARE CRISIS IN MICHIGAN

Mr. RIEGLE. Mr. President, last July I began coming to the Senate floor each week when we were in session to talk about the problems people in my home State of Michigan are facing because of the health care crisis that is afflicting us here in this country. Each of these stories that I have been presenting are about real people and real families who either lost their health insurance or cases where their health insurance is just not adequate to protect them from the skyrocketing cost of health care.

I want to continue to do this in the case of Michigan people. I want to put a real face on this health care crisis to help us stay focused on the human need to reform our health care system. I will continue to tell these individual stories in this way until we finally enact health care reform legislation.

So I want to start this year by telling the story of a woman named Maria Pianello. Maria is a 23-year-old woman from Saint Clair Shores, MI. She told me in a letter that she sent to me what her problems are. And I ask unanimous consent that her letter be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. RIEGLE. Mr. President, for the past 3½ years Maria worked for a local physician in Saint Clair Shores. And although her employer provided health

insurance to his employees, she has been denied coverage for her illness through this insurance company due to what is called a preexisting health condition. That condition is this: 5 years ago Maria was diagnosed with endometriosis, which is a condition that affects the lining of the uterus and can spread to other parts of the body. So she had that condition prior to her employment with this employer and this insurance company where she works.

Last summer, Maria's condition became more serious and the pain became unbearable for her. She knew she needed to have this problem treated and her physician recommended she have surgery in August of last year. Because of the preexisting clause, however, the insurer denied coverage for the surgery or for any other treatments or doctor visits that were related to this endometriosis condition that she has.

Without insurance for this particular health problem, Maria could not afford the surgery which was estimated to cost between \$8,000 and \$10,000. As a result, she was forced to delay seeking medical care for this very serious illness.

Maria contacted the Michigan Department of Social Services for assistance, but she was unable to receive benefits because she had an income from her work and that made her ineligible for assistance. Fortunately, Maria has been able to obtain individual coverage with Blue Cross/Blue Shield in Michigan after fulfilling a 6-month waiting period. So, she will finally have coverage for her surgery. It is scheduled now to take place in March of this year, but that is 8 months after her doctor said it was necessary for her to have this procedure, way back in August of last year.

Maria plans on getting married and she is very fearful that this delay that she had to undergo may result in permanent damage and might well prevent her from being able to have children.

The new insurance that she has after the 6-month waiting period through Blue Cross/Blue Shield is costing her almost \$300 a month. She is fortunate that her employer is willing to pay to cover the premium, because most employers simply cannot afford to pay the high cost of individual policies to cover just a single employee that has a problem like this and that does not fall under the umbrella of the insurance plan that is there for all the rest of the employees.

So, in this case, if it were not for the important help and consideration from Maria's employer, she would not be able to afford the cost of these premiums, and she would not be able to afford this operation in March, let alone when she should have had it in August of last year.

I want to emphasize again that the health care crisis in America is affect-

ing millions of people every day across this country—those that have no coverage, those that have problems of this kind that are not being treated properly, those that are underinsured, or where someone in a family may have coverage for themselves through the workplace but it does not cover their family members.

Maria, in her letter to me, said:

There has to be a different system for people like me that need coverage for a condition that we don't ask for. I want to make a suggestion that we should all be equal and have the same insurance with the same benefits.

I was struck when I read that line. I remember reading a recently published book about Abraham Lincoln giving the Gettysburg Address and how the quest to really achieve fully the promise of the constitutional guarantees of this country is something that is a journey, and that we have not yet managed to accomplish many things with respect to equality for our people that we need to achieve. And certainly recognizing and responding to the human needs of every citizen in this country in terms of their basic health care requirements, I think, is as fundamental as our founding documents.

We talk about life, liberty, and the pursuit of happiness. But if you are plagued with a very serious illness, maybe a life-threatening illness, and you cannot get the medical help or you cannot get the operation that you need or you cannot get it for your child, then guarantees about life, liberty, and the pursuit of happiness can ring hollow.

Reforming our Nation's health care system was a critical issue during the Presidential campaign and the accompanying congressional elections. I know that this new administration, the Clinton administration, is absolutely committed to finding a solution to the health care crisis. It is a top priority of the President and we know now also of Mrs. Clinton, because of her important assignment to spearhead the task force effort to develop a health care plan. And that is very good news for the country.

So I want to pledge again to continue to do all I can, as chairman of the Subcommittee on Health Care for Families and the Uninsured, to push ahead with national health care reform and to ask my colleagues in the Senate to work with the new President to get health care reform enacted this year so that we can bring affordable health care coverage to every citizen in our country.

I thank the Chair, and I yield the floor.

#### EXHIBIT 1

DEAR SENATOR REGAL: I am writing this letter to explain a painful position that I have been forced to face.

I am a 23-year-old female, actively employed with a company three years.

I have a pre-existing condition called Endometriosis. The health insurance I am

currently with, not only put a pre-existing clause on my policy, but would give me no coverage for my condition ever. (Permanent Exclusion Rider). Now that I've had this insurance for 15 months, I now need surgery to take care of my condition.

I feel that I've been discriminated against. I didn't ask for this condition.

I've done some research and found that no insurance company will accept this problem. I cannot ever get help from social services.

There has to be a different system for people like me that need coverage for a condition we didn't ask for. I want to make a suggestion that we should all be equal and have the same insurance with the same benefits.

I hope you take what I have suggested into consideration. Also if you have any solutions to my problem, will you please contact me. I am desperate and scared.

Thank you for taking the time to read my letter.

Sincerely,

MARIA PIANELLO.

#### APPOINTMENTS 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 Connecticut [Mr. DODD] as chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group during the 103d Congress.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C. 42-43, appoints the Senator from Virginia [Mr. WARNER] as a member of the Board of Regents of the Smithsonian Institution, vice the Senator from Utah [Mr. GARN], resigned.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations: John Gibbons to be Director of the Office of Science and Technology Policy, reported today by the Committee on Commerce, Science, and Transportation, and all nominations on the Secretary's desk in the Public Health Service and Coast Guard.

I further ask unanimous consent that the nominations be considered en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table; 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:

#### EXECUTIVE OFFICE OF THE PRESIDENT

John Howard Gibbons, of Virginia, to be Director of the Office of Science and Technology Policy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### IN THE COAST GUARD

Coast Guard nominations beginning Thomas M. Kulik, and ending Oliver P. Zimmermann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

#### PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Lawrence Y. Agodoa, and ending Janet M. Ruck, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

Public Health Service nominations beginning Alfred L. Brassel, Jr., and ending Maruta Zitans, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

Public Health Service nominations beginning Thomas C. Bonin, and ending Brent B. Warren, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 6, 1993.

#### STATEMENT ON THE NOMINATION OF JOHN H. GIBBONS

Mr. HOLLINGS. Mr. President, today I am pleased that the Senate is considering the nomination of Dr. John H. Gibbons to serve as Director of the White House Office of Science and Technology Policy [OSTP]. As with other OSTP directors, Dr. Gibbons, if confirmed, also will be Assistant to the President for Science and Technology and hence the President's personal science advisor.

Dr. Gibbons is well-known in Congress, having served since 1979 as the Director of the Office of Technology Assessment [OTA]. Those of us who have been on the Technology Assessment Board over the years have come to admire him a great deal.

The OSTP Director's position has always been a challenging job, but never more so than today. Three years after the fall of the Berlin Wall, our Government has barely begun the huge task of converting its \$76 billion annual research budget from cold war priorities to today's most urgent needs, particularly economic needs. President Clinton is right: The economy is the issue. As OSTP Director and Science Adviser, Dr. Gibbons will be in a position to help the President to remold the Federal science and technology establishment to promote long-term economic growth in an increasingly competitive world economy. It is a daunting task—one that will require new priorities, major budget shifts, and new methods of working with industry. The future of our country depends on how well the new administration meets this challenge.

I am convinced that Dr. Gibbons is the right person at the right time. He is a highly regarded scientist, with a doctorate in physics from Duke University. His work at Oak Ridge made him an expert in energy and environmental issues, among the most important topics for the country in the years ahead. He also has learned much about Federal laboratories and Federal research programs in general. From 1973-74, he headed energy conservation programs at what was then the Federal Energy Administration, and later the Department of Energy, and thus he is an experienced Federal manager. During his years at OTA, he has become familiar with nearly every major policy issue involving science and technology, including the critical issue of economic competitiveness. I also will add that he knows Congress well and, equally important, he has the confidence of the Members. Finally, Dr. Gibbons clearly has won the confidence of both President Clinton and Vice President GORE and will have an important role in shaping our country's future in science and technology.

Mr. President, earlier this week I was pleased to chair Dr. Gibbons' confirmation hearing, where he received strong bipartisan support. The Commerce Committee has voted without objection to recommend the nomination to the full Senate. I strongly support this nominee, and join my Commerce Committee colleagues in recommending that the Senate now confirm Dr. Gibbons as OSTP Director.

STATEMENT ON THE CONFIRMATION VOTE ON DR. JOHN H. GIBBONS

Mr. ROCKEFELLER. Mr. President, as the new chairman of the Senate's Subcommittee on Science, Technology, and Space, I could not let this occasion go by without a short statement about how pleased, and excited, I am about the nomination of Dr. John H. Gibbons to be Director of the Office of Science and Technology in the White House. The combination of the end of the cold war and the beginning of a new Presidency presents to our Nation great opportunities in many policy areas. One of the most critical of these is our national science and technology policy. That is why the nomination of Jack Gibbons is so important.

The end of the cold war makes us realize more than ever that our national strength has been and will continue to be determined by our international economic competitiveness. The beginning of the Clinton Presidency ends the long debate over the wisdom of Government action to improve our international competitiveness. The American people ended the debate with a decision. They asked their government to become a partner with American workers and American businesses to chart a course of economic recovery and long-term growth.

With that decision, the question we must now ask is how Government's

role will be implemented. Given the fact that competitiveness is so closely tied to advances we make in science and technology, much of this question will be how Government's role in science and technology should be executed.

The commitments President Clinton made during the campaign and the programs he outlined, especially his September manifesto, "Technology: The Engine of Economic Growth," and its companion, "Manufacturing for the 21st Century," demonstrated his recognition of the importance of science and technology to our national well-being. That recognition is also demonstrated by his decision to make the Director of the Office of Science and Technology Policy one of the earliest appointments in his administration and by his decision to give that appointment to someone with Dr. Gibbons' exceptional expertise and experience. And I don't mean only his distinguished science and technology background. The fact that he is also an expert in congressional relations is a special bonus.

When President Clinton called on all Americans to be prepared to sacrifice for the good of the Nation, he could have been thinking about how Congress would feel about giving up Jack Gibbons. I know that I am but one of many Senators who have counted on Dr. Gibbons over the years for lucid, insightful advice on science, technology, and a whole host of related issues. Congress' Office of Technology Assessment has thrived under his management, and he will be missed sorely. But I look at this change as a windfall for Congress and the Nation. I congratulate President Clinton on his selection and I urge my fellow Senators to give their consent to the nomination.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, 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. Thomas, 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 a nomination which was referred to the appropriate committee.

(The nomination received today is printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on January 27, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 202. An act to designate the Federal Judiciary Building in Washington, DC, as the "Thurgood Marshall Federal Judiciary Building."

Under the authority of the order of the Senate of January 5, 1993, the enrolled bill was signed on January 27, 1993, during the recess of the Senate by the President pro tempore [Mr. BYRD].

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 47. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 103-4).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Foreign Relations.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Rules and Administration.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 42. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

S. Con. Res. 8. An original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee on the Library in place of the Chairman of the Committee.

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

John Howard Gibbons, of Virginia, to be Director of the Office of Science and Technology Policy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard, which was printed in full in the CONGRESSIONAL RECORD of January 5,

1993, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

#### 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. LAUTENBERG:

S. 249. A bill to promote job creation and economic recovery through investment in transportation infrastructure, and for other purposes; to the Committee on Appropriations.

By Mr. MCCONNELL:

S. 250. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PELL:

S. 251. A bill to amend the Job Training Partnership Act to improve the Defense Conversion Adjustment Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 252. A bill to provide for certain land exchanges in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. PRYOR, and Mr. ROTH):

S. 253. A bill to authorize the garnishment of Federal employees' pay, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 254. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Finance.

By Mr. CAMPBELL:

S. 255. A bill to establish the Commission on Executive Organization; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 256. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow medicare administrative funding to combat waste, fraud, and abuse, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. WELLSTONE, Mr. LEVIN, Mr. LEAHY, Mr. HARKIN, Ms. MKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. KOHL, Mr. PELL, and Mr. JEFFORDS):

S. 257. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for

taxpayers to designate \$1 of any overpayment of income tax, and to contribute other amounts, for the use by the United States Olympic Committee; to the Committee on Finance.

By Mr. LEVIN:

S. 259. A bill to require that stock option compensation paid to corporate executives be recorded as a compensation expense in corporate financial statements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN:

S. 260. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 261. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

S. 262. A bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a non-smoking policy in buildings owned or leased by Federal agencies, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 263. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 264. A bill to establish a Classrooms for the Future program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself, Mr. INOUE, Mr. WALLOP, Mr. MACK, and Mr. HEFLIN):

S. 265. A bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. SARBANES):

S. 266. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. BUMPERS, Mr. PELL, Mr. DECONCINI, Mr. STEVENS, Mr. WELLSTONE, Mr. COVERDELL, and Mr. GRAMM):

S.J. Res. 30. A joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week"; to the Committee on the Judiciary.

By Mr. HEFLIN:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government; to the Committee on the Judiciary.

By Mr. DODD:

S.J. Res. 32. A joint resolution calling for the United States to support efforts of the

United Nations to conclude an international agreement to establish an international criminal court; to the Committee on Foreign Relations.

By Mr. MACK:

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Representatives and Senators in Congress; to the Committee on the Judiciary.

By Mr. BROWN:

S.J. Res. 34. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

By Mr. PRESSLER:

S.J. Res. 35. A joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. PRYOR, Mr. DOLE, Mr. HELMS, Mr. HEFLIN, Mr. COCHRAN, Mr. CONRAD, Mr. MCCONNELL, Mr. DASCHLE, Mr. CRAIG, Mr. BAUCUS, Mr. GRASSLEY, and Mr. FEINGOLD):

S.J. Res. 36. A joint resolution to proclaim March 20, 1993, as "National Agriculture Day"; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, Mr. DODD, Mr. DASCHLE, Mr. CAMPBELL, Mr. BRYAN, and Mr. REID):

S.J. Res. 37. A joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; 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. PELL:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. FORD:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Rules and Administration; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

S. Res. 42. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; from the Committee on Rules and Administration; considered and agreed to.

By Mr. DECONCINI:

S. Res. 43. An original resolution authorizing expenditures by the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. PRYOR:

S. Res. 44. A resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. HOLLINGS:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Commerce, Science and Transportation; to the Committee on Rules and Administration.

By Mr. BOREN:

S. Res. 46. A resolution authorizing expenditures by the Joint Committee on the

Organization of Congress; to the Committee on Rules and Administration.

By Mr. LEAHY:

S. Res. 47. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. FORD:

S. Con. Res. 8. An original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee on the Library in place of the Chairman of the Committee; from the Committee on Rules and Administration; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 249. A bill to promote job creation and economic recovery through investment in transportation infrastructure, and for other purposes; to the Committee on Appropriations.

START UP ACT OF 1993

• Mr. LAUTENBERG. Mr. President, during the recent Presidential campaign, there was a phrase that simply and clearly underscored the major concerns of millions of Americans. It became a watchword for the Clinton campaign, and Bill Clinton's focus on the message was a major reason for his victory in November. The message was this: "It's the economy, stupid!"

As we begin the 103d Congress, we cannot forget that message. The American people want an end to the political gridlock that has kept Government from acting to meet critical needs. As part of that change, President Clinton has focused badly needed attention on this Nation's need to increase investment in order to get our economy moving again.

Today, I am introducing legislation to get that process underway—right away—and to begin to deliver on that promise to invest in America. It is called START UP—the Supplemental Transportation Appropriations Reinvestment to Upgrade Productivity Act.

This legislation has three goals: To provide a boost to the economy; to create jobs; and to improve our infrastructure. Accordingly, the bill would target funds on three areas, where there are unmet needs, and where we did see an immediate benefit.

First, it would fully fund the Intermodal Surface Transportation Efficiency Act, providing \$2.9 billion for highways and \$1.4 billion for transit programs authorized by ISTEA.

Second, it would provide \$1.9 billion for the Airport Improvement Program, with \$400 million of that reserved for economic development at smaller airports. Currently, there are over \$7 billion in unfunded AIP applications pending at the FAA.

Third, the bill would expand and accelerate the funding of passenger rail

service in this country, providing \$540 million for the Northeast corridor improvement project and Amtrak's capital program.

In total, this is \$6.7 billion, which, as today's witnesses will attest, could be obligated within the current fiscal year, resulting in the creation of over 300,000 jobs.

To help ensure that our goals can be achieved, my bill would waive the non-Federal matching requirements for these funds, and require that they be obligated by the end of fiscal year 1993.

We have heard from some that an economic boost is not needed; that the economy is recovering without it. But, when I see 8 percent unemployment in a State like New Jersey, I do not see a recovery.

I see over 70,000 jobs that have been lost in the construction industry alone since 1988. I see us continuing a downward spiral toward being unable to compete in a global economy because we do not have a solid base for economic growth. I see us missing out on opportunities to open up new markets through investment in transportation.

I do not want to see the United States lose its competitive edge, and miss out on those opportunities.

Transportation investment is highly productive. It generates about a 2-for-1 gain in gross domestic product, and could create as many as 50,000 jobs per billion dollars of investment.

Last year, I offered similar legislation. Unfortunately, it ran right into the gridlock that prevented us from taking decisive economic action. It also ran into naysayers who claimed that it was unnecessary to help a recovery that was already underway.

We are here today because, in spite of some major changes in the last year, two things remain the same: First, our economy still needs a boost; second, our infrastructure is still suffering from two decades of disinvestment.

In the last few days, we have heard encouraging words from the Clinton administration, including that he likely will propose an economic investment package that will put needed additional funding into job-creating transportation programs.

I am encouraged by these announcements, and offer this bill today as guidance for carefully targeted investments in transportation can provide significant benefits, through job creation in the short term and by helping provide a base for continued economic growth in the future.

This morning, my Transportation Appropriations Subcommittee held a hearing to discuss the short- and long-term benefits of transportation investments. We heard from Tom Downs, commissioner of the New Jersey Department of Transportation, that my State has \$200 million in highway and transit projects, on the shelf and ready-to-go, awaiting additional fund-

ing. According to a recent survey by the American Association of State Highway and Transportation Officials, there are some \$8.5 billion worth of such projects across the country. Robert Georgine, president of the Building and Construction Trades of the AFL-CIO, told us that, throughout the country, there are thousands of skilled workers, waiting for a chance to work. And, Peter Wert of the Associated General Contractors explained that 50 percent of the construction resources in his association are now idle, and could be put to work.

Mr. President, it is time to move an economic investment package. This bill represents a sound means to start up our economy through productive investment in our transportation infrastructure.

But, we cannot be content with just this package. It should represent a down payment on a long-term commitment to meet the pressing infrastructure needs of this country. At a time when 65 percent of our roads and 39 percent of our bridges are in need of repair, we have to make the necessary investments in our basic systems. And, we need to expand our efforts in efficient and innovative programs, such as high-speed rail, and the intelligent vehicle-highway systems programs. As we also showed at today's hearing, investing in these programs provides not only the benefits of better transportation, but also can spur the development of new technologies and industries by enterprising American companies. Those new industries create jobs here at home, and open up export opportunities abroad.

To be competitive, and to promote growth in our economy, we need to invest more in our infrastructure. My proposal offers a sound means of beginning the job. I look forward to working with Secretary Pena and others in the coming days to promote more investment in our infrastructure, both long and short term.

I ask unanimous consent that the text of the START-UP Act of 1993 be printed in the RECORD.

S. 249

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, and for other purposes, namely:*

#### DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION

To expedite the maintenance and repair of the Nation's highways and bridges, and to stimulate economic activity, \$2,900,000,000, to remain available until expended, from the Highway Trust Fund: *Provided*, That such funds shall be distributed in accordance with the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240): *Provided further*, That such funds shall be exempt from any deduction under subsection (a) or (f) of section 104 of title 23, United States Code,

and from any limitation on obligations for Federal-aid highways and highway safety construction projects: *Provided further*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$18,303,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1993: *Provided further*, That such funds shall be exempt from requirements for any non-Federal share otherwise required under title 23, United States Code: *Provided further*, That such funds shall be obligated by the States by not later than September 30, 1993.

#### FEDERAL TRANSIT ADMINISTRATION

To expand the capacity and efficiency of public transportation systems, expedite compliance with requirements under the Americans with Disabilities Act of 1990, the Clean Air Act Amendments of 1990, \$1,400,000,000, to remain available until expended from the Mass Transit Account of the Highway Trust Fund: *Provided*, That such funds shall be distributed in accordance with the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240): *Provided further*, That such funds shall be exempt from requirements for non-Federal matching funds otherwise required under the Federal Transit Act: *Provided further*, That such funds shall be obligated by the States by not later than September 30, 1993.

#### FEDERAL AVIATION ADMINISTRATION

To expand capacity, improve safety and the efficiency of the national aviation system, \$1,900,000,000, to remain available until expended from the Airport and Airway Trust Fund, for additional Airport Improvement Program grants-in-aid as authorized under section 14 of Public Law 91-258, as amended: *Provided*, That of the amount provided, \$500,000,000 shall be obligated for projects at the discretion of the Administrator of the Federal Aviation Administration: *Provided further*, That of the amount provided, \$400,000,000 shall be obligated for projects at the discretion of the Administrator of the Federal Aviation Administration for projects that enhance economic development at small hub and non-hub airports: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of \$3,700,000,000 in fiscal year 1993 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed \$198,173,199 shall be available for letters of intent issued prior to June 30, 1992: *Provided further*, That such funds shall be exempt from requirements for non-Federal matching funds otherwise required under section 14 of Public Law 91-258, as amended: *Provided further*, That such funds shall be obligated by not later than September 30, 1993.

#### FEDERAL RAILROAD ADMINISTRATION

##### NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. et seq.) and the Rail Safety Improvement Act of 1988, an additional \$220,000,000, to remain available until expended: *Provided*, That such funds shall be obligated by not later than September 30, 1993.

##### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad

Passenger Corporation for capital improvements, an additional \$320,000,000, to remain available until expended: *Provided*, That such funds shall be obligated by not later than September 30, 1993.

SEC. 2. SHORT TITLE.—This Act may be cited as the "Supplemental Transportation Appropriations Reinvestment to Upgrade Productivity (Start-Up) Act of 1993".

By Mr. MCCONNELL:

S. 250. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

#### RED RIVER DESIGNATION ACT

• Mr. MCCONNELL. Mr. President, I rise today to introduce legislation that will protect one of America's most unique and unspoiled rivers. Anyone who has ever visited eastern Kentucky can testify to its rich natural beauty. But the residents of Powell, Wolfe, and Menifee Counties have long known about a special river that could be called the crown jewel of Kentucky's Daniel Boone National Forest.

While it's not well known outside of my State, the Red River Gorge has been a source of pride for Kentuckians for generations. The gorge has rugged towering cliffs ascending from the edge of the Red River. Small streams rush down these steep cliffs to the river below. Taking millions of years to form, its cavernous overhangs make visitors take stock of the awesome hand of God, and the temporal nature of humans on this planet. The numerous natural bridges and the surrounding Clifty Wilderness have attracted outdoor enthusiasts from all over the Commonwealth.

The Red River provides recreational opportunities unique to the Eastern United States. Portions of the river have crashing white waters that would cause even the experienced canoeist to take pause. Stretches of softly flowing water roll through enormous rock formations that dwarf passing canoeists.

In addition to the gorge's irreplaceable geological value, the Red River is replete with a wide array of flora and fauna. The gorge has many ecological niches that provide ideal habitat for various species of birds, trees, shrubs, and flowers. Wildflowers are rampant throughout the area including blue violets, asters, foxgloves, and wild roses.

Native Americans discovered the gorge long before European settlers arrived in the New World. Rock shelters protected them from the elements and offered defense from hostile forces. During the Civil War, local residents mined nitrate from the gorge's jagged dens. The area was heavily logged near the turn of the century, but, slowly, it has grown back to its past rich mixture of trees. It wasn't until 1934 that the U.S. Forest Service began purchasing land around the gorge in what is now a

part of the Daniel Boone National Forest.

Today, the river links cohesive rural communities comprised of small family farms that exist tranquilly with the spectacular natural beauty of the waterway. The area harkens back to a simpler time before the bustle and noise of sprawling urbanization drowned out the quiet simplicity of rural America.

But it was not always so tranquil. Back in 1954, when a dam was proposed to create a Red River Lake, many local residents rose up in strong opposition, and in favor of protecting the gorge.

Since then, plans to build the dam were delayed and have continued to spark controversy and grassroots opposition. By 1978, Congress called for a study of the river to be included in the National Wild and Scenic Rivers System, buying precious time for those who took up the cause of protecting the gorge. Finally, on January 7 of this year, after extensive study by the U.S. Forest Service, President Bush recommended that 19.4 miles of the Red River be designated as a national wild and scenic river to protect forever its unimpeded flow.

My bill will put to an end plans to flood the irreplaceable gorge, and will ensure the free-flowing condition of this unbridled waterway. By adding the Red River to the National Wild and Scenic Rivers System, hikers, campers, canoeists, and other outdoor enthusiasts will always be able to enjoy its rugged and awesome beauty.

Initially, I had reservations about adding the Red River to the National Wild and Scenic Rivers System. I was troubled that overzealous efforts to protect the river could preclude public enjoyment of this wonderful resource. I feared the local agricultural economy could be adversely affected if the river was indiscriminately locked up forever. I was also concerned that this Federal designation would violate the constitutional rights of private landowners by preventing use of land without full and fair compensation. Since these concerns have been allayed, I have decided to move ahead quickly for designation of the Red River as a national wild and scenic river.

Small family farms dot the landscape around the river. For years, the rural farming communities of Powell, Menifee, and Wolfe Counties have played a critical role in protecting the gorge. They must continue to be actively involved so that the intricate balance that has been achieved between protecting the river and maintaining a healthy rural economy will continue undisturbed.

The national wild and scenic designation for the Red River allows for the development of recreational facilities as a part of the environmentally responsible management of the overall river ecosystem. Ecotourism, as it is

now called, is big business. Long-term protection of the Red River Gorge will provide a promising and sustainable economic future for the residents of the tricotony area. The potential for canoe excursions, guided tours, and interpretive centers will help support the local economy.

Under my legislation, affected landowners will be fully compensated for their holdings if they choose to sell to the Federal Government. Even though 64 percent of the land designated under my bill is already owned by the Federal Government, I felt the need to take extra precautions to protect the rights of private property owners.

While land along protected river corridors has been known to increase in value, the Wild and Scenic Rivers Act limits Federal acquisition of protected lands that could potentially leave private holdings unmarketable. My legislation specifically removes the limitations on Federal acquisitions under the act so that landowners may sell all of their holdings in the protected area to the Federal Government if they so desire.

It comes down to a question of balance. Balance is so often lacking in the debate on the important environmental and conservation issues facing our Nation. I believe my legislation achieves this balance, and will be in the best long-term interest of the gorge, the river, and the citizens of Wolfe, Menifee, and Powell Counties.

Mr. President, a diverse array of citizens and grassroots organizations support the designation of the Red River as a national wild and scenic river. This proposal has been endlessly studied and debated. With the President's enthusiastic recommendation in mind, I believe now is the time to protect the gorge and the river forever.●

By Mr. PELL:

S. 251. A bill to amend the Job Training Partnership Act to improve the Defense Conversion Adjustment Program, and for other purposes; to the Committee on Labor and Human Resources.

#### DEFENSE WORKER DISLOCATION ACT

Mr. PELL. Mr. President, today I am reintroducing a bill that I originally introduced in the 2d session of the 102d Congress aimed at helping dislocated defense workers.

I recently had the opportunity to discuss this issue with President Clinton's choice for Secretary of Labor, Robert Reich. I made it clear to Secretary Reich that in my view, the Clinton administration Department of Labor should place a high priority on meeting the unique needs of dislocated defense workers.

The end of the cold war is an event that all peaceful nations welcome, but this new era for America brings growing pains for a group of highly skilled workers employed by the U.S. defense industry.

My home State of Rhode Island is on the bowwave of easing the adjustment problems of dislocated defense workers. Rhode Island is one of two small States, the other being Connecticut, to absorb one of the first major post-cold-war defense procurement terminations—namely the cancellation of the *Seawolf* submarine program. The Electric Boat Division of General Dynamics, builder of the *Seawolf*, is the largest private sector employer of Rhode Island workers, who comprise about one-third the company's work force. Total Electric Boat employment, which stood until fairly recently at about 23,000, will drop to under 20,000 by the end of this year and continue to drop steadily to under 10,000 by 1996.

The workers who lose their jobs at Electric Boat are high-skill, high-wage workers who are faced with the almost impossible task of finding work that will pay a similar wage for similar skills. Secretary of Labor Reich demonstrated a keen grasp of this fundamental problem when I spoke to him about the bleak future of many Rhode Island Electric Boat workers. Secretary Reich also has been an advocate of the need to retrain the American work force so that working men and women can qualify for the high-wage, high-skill jobs of the future and it is through retraining that the Federal Government can best help dislocated defense workers.

The legislation I am reintroducing today will provide greater access to Federal job training resources for Federal workers. Specifically, my bill provides that dislocated defense workers not be held to the prevailing standards of eligibility of the Job Training Partnership Act [JTPA], which is basically geared toward serving structurally unemployed persons with low skills. As a nation, we need to expand or redirect the skills of dislocated workers. But I have been informed by officials in Rhode Island that as they interpret JTPA, they cannot provide training as authorized under the Defense Economic, Diversification, Conversion and Stabilization Act of 1990 without revision of the JTPA rules. This bill simply modifies the relevant statutes, at no cost, to let States use Federal resources in a manner which best serves the growing population of dislocated defense workers.

Mr. President, as I have suggested, the experience of the State of Rhode Island may have relevance far beyond its borders and I am hoping that this legislation could be helpful to all sections of the country and therefore acceptable to a majority of Congress.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

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

S. 251

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 "Defense Worker Dislocation Act".

#### SEC. 2. RETRAINING.

(a) IN GENERAL.—Section 325(a) of the Job Training Partnership Act (29 U.S.C. 1662d(a)) is amended—

(1) in the first sentence, by striking "From the" and inserting "(1) From the";

(2) by inserting after the first sentence the following: "The Secretary may make the grants in any State in which the Governor has received a notification regarding a closure, cancellation, or reduction under section 4201(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, and in which eligible employees have received a notification of warning from their employer regarding the closure, cancellation, or reduction."; and

(3) by striking the last sentence and inserting the following:

"(2) To be eligible to receive a grant, an entity referred to in paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including the date on which the entity anticipates that the eligible employees affected will lose employment, and information relating to the notifications described in paragraph (1).

"(3) The Secretary shall approve or deny the application not later than the later of—

"(A) 15 days after the date described in paragraph (2); or

"(b) 30 days after submission of the application."

(b) USE OF FUNDS.—Section 325 of such Act is amended by striking subsection (c) and inserting the following new subsection:

"(c)(1) Grants under subsection (a) may be used—

"(A) to provide retraining, as described in section 314(d) or to update existing skills, with respect to an eligible employee described in subsection (f)(3)(A); and

"(B) notwithstanding any other provision of this Act, to pay for the Federal share of providing such retraining with respect to an employee of eligible defense contractors or eligible defense subcontractors if—

"(i) the employee is currently involved in defense work;

"(ii) the retraining is designed to enable the employee achieve placement and retention in unsubsidized employment that involves nondefense work and in which the employee has not previously been substantially engaged; and

"(iii) the employer certifies that the employee would have become an eligible employee described in subsection (f)(3)(A), without the retraining.

"(2) The Federal share of providing the retraining described in paragraph (1)(B) shall be 75 percent."

(c) ADMINISTRATION.—Section 325 of such Act is amended by—

(1) redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1)(A) Not later than 15 days after the approval of an application of an entity under subsection (a)(3), the Secretary shall make available to the entity 50 percent of the amount of the grant.

"(B) On submission of the report described in subparagraph (C), the Secretary shall

make available to the entity the remainder of the grant.

"(C) Each recipient of a grant under this section shall prepare and submit to the Secretary a report containing such information as the Secretary may require regarding eligible employees participating in the program, and the current education skill levels and occupational abilities of the employees.

"(D) Grants made under this section may be used to reimburse an entity for funds expended under another provision of this title for the purposes described in subsection (c).

"(E) Grants made under this section to an entity shall be in addition to assistance under any other provision of this title, and shall be made without regard to whether the entity has expended funds available under such provision.

"(2)(A) For purposes of the requirements of title I, and in particular of section 141(a), an eligible employee shall be deemed to be a person who can benefit from, and is most in need of, services provided under this section.

"(B) Notwithstanding any other provision of this Act, in prescribing performance standards under section 106 of this section, the Secretary shall prescribe standards solely based on placement and retention in unsubsidized employment. Services provided to eligible employees under this section consistent with individual readjustment plans shall be presumed to be in compliance with such standards unless any person demonstrates that the services are not in compliance."

(d) DEFINITIONS.—Section 325 of such Act is amended by adding at the end the following new subsection:

"(f) For purposes of this section:

"(1) The term 'eligible defense contractor' means a person that is—

"(A) awarded a contract by the Department of Defense; and

"(B) affected by a notification issued under section 4201(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990.

"(2) The term 'eligible defense subcontractor' means a subcontractor—

"(A) for a person awarded a contract by the Department of Defense;

"(B) that is affected by such a notification; and

"(C) that is certified by a State agency described in section 3306(e) of the Internal Revenue Code of 1986.

"(3) The term 'eligible employee' means—

"(A) an eligible dislocated worker, including such a worker of an eligible defense contractor or eligible defense subcontractor, who has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of reductions in expenditures by the United States for defense or by closures of United States military facilities, as determined in accordance with regulations of the Secretary; and

"(B) an employee described in subsection (c)(1)(B).

"(4) The term 'employer' includes an eligible defense contractor and an eligible defense subcontractor."

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 252. A bill to provide for certain land exchanges in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

IDAHO LAND EXCHANGE ACT OF 1993

Mr. CRAIG. Mr. President, during the 102d Congress I introduced S. 1893, the

Idaho Land Exchange Act of 1991. This bill had many supporters. Unfortunately, the 102d Congress adjourned before this bill could be passed by Congress. I am very pleased to introduce this legislation again today with my colleague from Idaho, Senator DIRK KEMPTHORNE.

The Idaho Land Exchange Act of 1993 will facilitate the exchange of lands between the Forest Service—USDA and the University of Idaho in Bonner County, and the Forest Service—USDA and the State of Idaho in Fremont County.

In Bonner County, the University of Idaho will gain ownership of the 35.27-acre Clark Fork Field Campus from the Kaniksu National Forest in exchange for 40 acres of university-owned property.

The Clark Fork Field Campus is the site of an old ranger station abandoned by the Forest Service in 1974. The buildings deteriorated into a state of disrepair. In 1980 the Forest Service was at a point of razing the buildings and reverting the site to forest. The University came forward with a proposal to rehabilitate the buildings and grounds, and to use them as a research and continuing education facility. The Forest Service granted this use under a Granger-Thye permit which is still in effect. Since 1980, the University has invested more than \$200,000 in maintenance and capital investment to bring the site back to a condition superior to its condition when abandoned in 1974. The University's programs at this campus have proven popular and have been quite successful. There has been strong support from the local community.

This legislation enables the exchange by requiring that only land value be considered when equalizing the value of the exchanged tracts. The value of the buildings and improvements, which accrue to the Forest Service under the conditions of the permit, will not be considered in the appraisal. In other words, this bill recognizes that the current value of the buildings and improvements is the direct result of expenditures by the University, which should not be required to pay for them a second time. An exchange is desirable because the University wishes to make further improvements and expand its programs at Clark Fork, but is unwilling to do so if title remains with the Forest Service. That is understandable. Years of discussion between the Forest Service and the University have failed to find a method to effect the exchange which does not unduly penalize the University. Consequently, I have decided to again offer this.

All other procedures normally required by law or regulation to implement a land exchange will be carried out as usual. This legislation will expand the national forest proclamation boundary to include the 40 acre tract to be exchanged by the University.

The bill also facilitates exchanges between the Targhee National Forest and the State of Idaho in Fremont County by expanding the proclamation boundary of the national forest. No private lands are included in the expansion—only lands of the Idaho Department of Parks and Recreation.

By Mr. CRAIG (for himself, Mr. PRYOR, and Mr. ROTH):

S. 253. A bill to authorize the garnishment of Federal employees' pay, and for other purposes; to the Committee on Governmental Affairs.

GARNISHMENT EQUALIZATION ACT

Mr. CRAIG. Mr. President, last year the Senate passed the Garnishment Equalization Act—a bill allowing garnishment of Federal employees' wages to pay their just debts. Unfortunately, the House did not complete its work on the bill before the 102d Congress adjourned in October.

Today, I am reintroducing that legislation on behalf of myself and Senators PRYOR and ROTH—each of whom played an important role last year in moving the bill through the Senate. I am confident that we will indeed see this bill enacted during the 103d Congress.

Why am I so confident? Because this legislation makes good sense, it is fair, it is workable, and it will help both Federal employees and American business.

People should pay their bills. This is an ethic most Americans accept and live by, and the premise that underlies our credit system. It is also the commonsense understanding behind legal remedies, including garnishment, that creditors can use against those who do not pay their bills.

The Garnishment Equalization Act simply ensures that the remedy of garnishment applies equally to all debtors, regardless of who employs them. It would plug the current hole that allows Federal employment to be used as a shield against garnishment.

We know this reform is workable, because it's already working in a couple of sectors of the Federal Government for some debts, and across the Federal workforce for child support payments and alimony. You might say we've had a pilot program working for years—and since the limited program has proven to be effective, it's appropriate for Congress to move to the next logical step and pass this more extensive reform measure.

I would like to add that the potential effectiveness of this bill was significantly improved in the last Congress by the work of the Senate Committee on Governmental Affairs, and especially its Subcommittee on Federal Services, Post Office and Civil Service. Chairman PRYOR, Senator STEVENS, Senator ROTH, and their staffs are to be commended for their meticulous attention to detail, and also for working in a constructive, bipartisan fashion with

the Office of Personnel Management in crafting positive revisions to the bill. As a result of their efforts, the bill passed by the Senate last year—the bill I am reintroducing today—is a truly workable, comprehensive reform.

Surely no one would question the fairness of this reform. It cannot be seriously argued that a particular group of workers should be insulated from paying debts that were freely incurred. Federal workers themselves do not make that argument; indeed, they are strong proponents of applying equal treatment to private and public sector employees.

Furthermore, the Garnishment Equalization Act will help the large proportion of the Federal workforce who are honest and conscientious and do pay their bills. Because of the current law, anyone who does business with a Federal employee has to worry about taking a loss if the Federal employee defaults and fails to make payments. Knowing garnishment is unavailable against a defaulting Federal employee could influence a lender to withhold approval of loans for such employees. By extending the remedy of garnishment, this legislation may help prevent a credit crunch for credit-worthy Federal employees.

Although there are relatively few Federal workers who have taken advantage of their employment status to avoid paying their debts, those few have amassed a surprisingly large amount of debt. Estimates vary, but one well-supported economic study concluded that American business writes off more than \$1.2 billion annually in Federal employee bad debts—which translates to a loss of some \$300 million in Federal tax revenue.

President Clinton made economic revitalization a centerpiece of his campaign and his Presidency. There's a lot of talk around Washington and across the country about how we can give our economy a quick shot in the arm. Well, according to the small businesspeople who have been calling my office regularly to check on this legislation, one of the best things we can do is to give them this ability to collect outstanding moneys owed to them.

That's probably why this reform effort has won the support of thousands of local, State, and national organizations and businesses, including the Coalition of Higher Education Assistance Organizations, the National Federation of Independent Businesses [NFIB], and the U.S. Chamber of Commerce.

In sum, Mr. President, this is a needed change that will eliminate discriminatory treatment of an entire class of Americans. The legislation is just, it is workable, and it will be effective. I hope my colleagues will join me in cosponsoring this bill, and I look forward to its consideration and passage by the Senate.

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 254. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Finance.

ENERGY SECURITY TAX ACT

Mr. JOHNSTON. Mr. President, today I join with my colleague on the Energy Committee, Senator BOB KRUEGER, in introducing the Energy Security Tax Act to establish a variable fee on crude oil imports. The fee would be phased in whenever the price of internationally traded oil drops below \$25 per barrel and would equal the difference between \$25 and the existing world market price.

The bill provides an additional differential of \$2.50 per barrel for product imports and petrochemical feedstock which would, in effect, create a floor price of \$27.50 for those refined products and feedstock.

We have heard much discussion this week about the subject of energy taxes. Some argue that any such tax should be structured to raise revenue and reduce the deficit. Others say the primary objective of an energy tax should be to encourage conservation. Still others maintain that our goal should be to promote domestic energy production, reduce our growing reliance on imported crude oil, and stem the enormous transfer of our wealth and jobs from the United States on foreign countries.

The legislation we propose would accomplish all of those objectives. Based on the price path projected by the Energy Information Administration, that is, crude oil prices increasing to \$23 per barrel by the year 2000, the fee we are proposing would raise an estimated \$35 billion in new revenue for the Federal Treasury over the next 3 years.

By the year 2000, it would reduce domestic oil consumption by roughly 200,000 barrels per day. It would increase domestic oil production on the order of 300,000 barrels per day. And it would reduce oil imports by an estimated 500,000 barrels per day.

Mr. President, our domestic oil industry is in serious trouble. Hundreds of thousands of jobs have been lost, more jobs than in any other sector of the economy including the automobile industry. Exploration budgets have been slashed. Local economies have been devastated.

Last year was the worst year on record for oil and gas drilling in the United States in modern times. According to Baker Hughes, Inc., in 1992 there was an average of 721 active rigs, down almost 140 rigs from the 1991 average. The rig count in the Outer Continental Shelf in the Gulf of Mexico hit its modern low point last year, and it is still on the way down.

Most recently, the Gulf of Mexico has experienced the two worst Federal OCS lease sales in history.

This translates into lost jobs. Petroleum industry jobs have dropped by over 450,000—that's nearly 22 percent—in the past decade. The recession that has plagued our economy has perhaps hit the oil patch as we call it, hardest of all.

This situation has grave implications for our national energy security as well as our national security. We are still overly dependent on oil imports from the Middle East.

Last year, total imports as a percent of domestic deliveries amounted to 46.2 percent, up from the 1991 level of 45.6 percent.

While enactment last year by the Congress of the Energy Policy Act makes significant strides in addressing this problem, such as providing relief for independent producers from the alternative minimum tax, we can and we must do more.

Last year, domestic production continued its long decline. According to the American Petroleum Institute, domestic production fell to 7.132 million barrels per day in 1992, down 3.8 percent from 1991 levels. At the same time, our consumption of oil increased by 1.6 percent, to 16.985 million barrels per day.

The legislation that I am introducing today will help to address this situation. An oil import fee designed to maintain a reasonable floor price for oil would give assurance to those who would drill for oil, and those who would lend them money to drill, that there will be some downside protection against lower oil prices.

Price instability has created a difficult environment for the domestic industry. For example, oil prices hit a low of \$10 in 1986, and soared to over \$40 on October 9, 1990. There is a widely perceived fear in the oil patch that prices will gyrate back down to very low levels, perhaps as low as single digit. Our domestic oil industry needs certainty and predictability in order to be viable.

Unfortunately, Saddam Hussein has made tragically clear the importance of oil to our national security. However, we have the means to preserve the domestic oil industry and to assure that our vital industry and to assure that our vital interests are not again endangered by reliance on oil from the Middle East.

We must act, and we must act now. I believe one of the most effective remedies is an oil import fee, such as that which Senator KRUEGER and I provide for by the bill we are introducing today. The legislation would yield secure domestic supplies of oil, jobs for our workers here at home, and much needed revenues to reduce the Federal deficit.

Mr. President, I urge my colleagues to join in cosponsoring this legislation. I ask unanimous consent that the text of the bill appear at this point in the RECORD. I send this bill to the desk on

behalf of myself and Senator KRUEGER at this time.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. JOHNSTON. I thank the Chair.

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

S. 254

*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 "Energy Security Tax Act".

#### SEC. 2. FEE ON IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

#### "CHAPTER 55—IMPORTED CRUDE OIL, REFINED PETROLEUM PRODUCTS, AND PETROCHEMICAL FEEDSTOCKS OR DERIVATIVES

"Sec. 5886. Imposition of tax.

"Sec. 5887. Definitions.

"Sec. 5888. Registration.

"Sec. 5889. Procedures; returns; penalties.

"Sec. 5889. Adjustment for inflation.

#### "SEC. 5886. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to any other tax imposed under this title, an excise tax is hereby imposed on—

"(1) the first sale within the United States of—

"(A) any crude oil,

"(B) any refined petroleum product, or

"(C) any petrochemical feedstock or petrochemical derivative,

that has been imported into the United States, and

"(2) the use within the United States of—

"(A) any crude oil,

"(B) any refined petroleum product, or

"(C) any petrochemical feedstock or petrochemical derivative, that has been imported into the United States if no tax has been imposed with respect to such crude oil or refined petroleum product prior to such use.

"(b) RATE OF TAX.—

"(1) CRUDE OIL.—For purposes of paragraphs (1)(A) and (2)(A) of subsection (a) the rate of tax shall be the excess, if any, of—

"(A) \$25 per barrel, over

"(B) the most recently published average price of a barrel of internationally traded oil.

"(2) REFINED PETROLEUM PRODUCT.—For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), the rate of tax shall be the excess, if any, of—

"(A) \$27.50 per barrel, over

"(B) the most recently published average price of a barrel of internationally traded oil.

"(3) PETROCHEMICAL FEEDSTOCK OR PETROCHEMICAL DERIVATIVE.—For purposes of paragraphs (1)(C) and (2)(C) of subsection (a), the rate of tax shall be equal to the rate of tax determined under paragraph (2) of this subsection, except that 'barrel equivalent of crude oil feedstocks used in the manufacture of such petrochemical feedstocks or petrochemical derivative' shall be substituted for 'barrel' in paragraph (2)(A) of this subsection.

"(4) FRACTIONAL PARTS OF BARRELS.—In the case of a fraction of a barrel, the tax imposed

by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

#### "(c) DETERMINATION OF AVERAGE PRICE.—

"(1) IN GENERAL.—For purposes of this section, the average price of internationally traded oil with respect to any week during which the tax under subsection (a) is imposed shall be determined by the Secretary and published in the Federal Register on the first day of such week.

"(2) BASIS OF DETERMINATION.—For purposes of paragraph (1), the Secretary, after consultation with the Administrator of the Energy Information Administration of the Department of Energy, shall determine the average price of internationally traded oil for the preceding 4 weeks, pursuant to the formula for determining such international price as is used in publishing the Weekly Petroleum Status Report and as is in effect on the date of enactment of this section.

#### "(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The taxes imposed by subsection (a)(1) shall be paid by the first person who sells the crude oil, refined petroleum product, petrochemical feedstock, or petrochemical derivative within the United States.

"(2) USE.—The taxes imposed by subsection (a)(2) shall be paid by the person who uses the crude oil, refined petroleum product, petrochemical feedstock, or petrochemical derivative.

#### "SEC. 5887. DEFINITIONS.

"For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' means crude oil other than crude oil produced from a well located in the United States or a possession of the United States.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) REFINED PETROLEUM PRODUCT.—The term 'refined petroleum product' shall have the same meaning given to such term by section 3(5) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752(5)).

"(4) EXPORT.—The terms 'export' and 'exported' include shipment to a possession of the United States.

#### "SEC. 5888. REGISTRATION.

"Every person subject to tax under section 5886 shall, before incurring any liability for tax under such section, register with the Secretary.

#### "SEC. 5889. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title, any reference to the tax imposed by section 5886 shall be treated, except to the extent provided by the Secretary by regulation where such treatment would be inappropriate, in the same manner as the tax imposed by section 4986 was treated immediately before its repeal by the Omnibus Trade and Competitiveness Act of 1988.

#### "SEC. 5890. ADJUSTMENT FOR INFLATION.

The \$25.000 per barrel price referred to in section 5886(b)(1) and the \$27.50 per barrel price referred to in section 5886(b)(2) shall be changed during any calendar year after 1993 by the percentage if any by which the Consumer Price Index changed during the preceding calendar year, as defined in section 1(f)(4) of title 26 of the United States Code."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"CHAPTER 55. Imported crude oil, refined petroleum products, and petrochemical feedstocks or derivatives."

(c) DEDUCTIBILITY OF IMPORTED OIL TAX.—The first sentence of section 164(a) (relating

to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The imported oil taxes imposed by section 5886."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and uses of imported crude oil, imported refined petroleum products, petrochemical feedstocks, or petrochemical derivatives on or after the date of enactment of this Act.

Mr. KRUEGER. Mr. President, I am very pleased to be able to join my distinguished chairman of the Senate Energy Committee in offering this legislation to establish a floor price for oil. This is legislation that is not designed from parochial interests. It is designed to address national concerns. Everyday we are sending overseas \$150 million to buy foreign oil. In any city in this country, if a new business was begun that brought \$150 million worth of investment, it would be front-page news anywhere, and that is the amount of money we are sending overseas everyday. But it is not for investment. It is simply for daily oil consumption.

This dependence on foreign oil comes from a variety of causes. A principal cause is the uncertainty in oil prices. Within a year's time, we have seen oil prices on one occasion go from \$36 or \$37 a barrel to \$10 a barrel. Imagine the impact on the auto industry if automobiles were to go from \$36,000 to \$10,000 within the same year. Obviously, that kind of extraordinary variation would simply decimate and devastate the industries that are providing this product.

If we establish a floor price for oil, what we are doing is establishing energy security, energy security that in turn contributes immediately to our military security.

We are all well aware why we have troops in the Middle East. It is not because the nations there are committed to the notion of government of, by, and for the people. The Emir of Kuwait is not a notable proponent of democracy. We have troops there because our dependence on foreign oil has made it in our strategic national interest to see to it that the world continue to receive a flow of oil from the Middle East. That obviously has its immediate impact on us as well.

As the distinguished chairman of the Energy Committee has indicated, the job loss in the energy industry over the past decade has been extraordinary. In excess of 400,000 jobs have been lost in the oil and gas industry over a decade, a number exceeding the number of jobs lost in textiles, coal and steel combined. Many of those are jobs that could come back to this country if we had a floor price for oil, because then we would have the stability that would encourage domestic exploration and drilling. It is that search for the recovery of our own resources rather than to search for them overseas that will keep our jobs and our capital at home.

As is probably fairly well known, currently we import almost 50 percent of our oil from foreign sources. If we are able to search for oil here, we will at the same time find natural gas in the process; and that, in turn, will contribute to the additional supplies which we require for the expanding use of natural gas which our clean air legislation is going to encourage.

So from a whole variety of standpoints, it simply makes sense for the Nation to establish a floor price for oil. Any taxes imposed will provide funds for deficit reduction, will lessen our dependence on foreign oil. A floor price undoubtedly will create U.S. jobs, will increase investment in America, will encourage the use of clean burning alternatives to oil, and will help America restore its competitive edge.

It may seem simplistic economics, but it seems to me that if we put a piece of steel down in the ground and draw up mineral reserves that were not there before, we are creating new wealth in a way that wealth is not created if we simply pass from one place to another pieces of paper as exists in the stock market and exists in purely financial transactions. When we can begin by building jobs at the very base of our economic pyramid, then those jobs are, in turn, created all the way through our economy.

In short, the creation of jobs in our principal industries, whether they be related to coal, oil or gas, has an immediate effect on job creation in the remainder of our society. It enhances our military security. It enhances our economic security. It is a win-win situation for this country, and I am extremely pleased to be able to introduce this legislation with my distinguished chairman.

Mr. President, if we will allow stability in the oil patch, we will be encouraging domestic exploration and drilling in a way that nothing else will.

I will draw to a conclusion promptly, but let me simply mention that with stable oil prices, the independent oil producers can go to their bankers. And if they have oil in the ground which they wish to put up as collateral, the bankers will know the value of that oil in the ground because the U.S. Government has defined the value of that oil as collateral. That will give the necessary funds for expansion of exploration and drilling.

Over a decade ago, there were some 4,500 rigs in this country. We dropped to a low of 650. We are now in the 700's. That is a tremendous loss not only in jobs but it is also a loss in an area where the United States still has technological leadership. The United States has lost technological leadership in many areas of our society. Here is an area where we still have it. But if we decimate our domestic drilling industry, we really are depriving ourselves of a technological lead which we currently enjoy.

The number of students studying petroleum and geology at the University of Texas in Austin and Texas A&M is only one-fifth today of what it was a decade ago. We are depriving this Nation of the very scientific community that will be necessary to develop our oil reserves in the future.

I join my distinguished chairman in encouraging other Members of this body to support this legislation, and I thank the Chair.

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

Mr. KRUEGER. Certainly.

Mr. JOHNSTON. Mr. President, I believe this is the Senator's maiden speech on the floor of the Senate; am I correct?

Mr. KRUEGER. The Senator is absolutely correct.

Mr. JOHNSTON. Mr. President, I want to commend the Senator for what I think was a very thoughtful and incisive and articulate statement of the problem.

We are very lucky on the Energy Committee to have Senator KRUEGER from Texas joining us.

I also see Senator BEN NIGHTHORSE CAMPBELL from Colorado on the floor. We are also very pleased to have his services. Our committee has been greatly enhanced by the presence of both of these Senators, but I particularly want to congratulate Senator KRUEGER for his statement and I look forward to many, many years of distinguished service from Senator KRUEGER. We served together on a conference committee some years ago when he was in the House and I in the Senate. He represented his State very well, and he represented the House very well at that time. We are very glad to have him on the Energy Committee and in this body. He will add immensely to it because of his background and because of the incisiveness of his mental faculties; because of his education. I do not know whether my colleagues know but in his previous incarnation he was a Shakespearean scholar at Duke University, and we can use some people in this body who can help correct our syntax and join the distinguished occupant of the Chair in his knowledge of history and Shakespeare. I look forward to the conversations between the distinguished President pro tempore and the Senator from Texas in enlightening Members of the Senate on some very interesting matters which I am sure, as the days unfold, we will hear.

So my hat is off to the distinguished Senator from Texas for his maiden speech, and we welcome him to the Senate and to the Energy Committee.

Mr. KRUEGER. I thank my chairman very much. I had not planned to quote any Shakespeare, but now that he has mentioned this hidden aspect of my past, I will say the words that come to me, and they are probably not quite accurate but something like "if it be

now, 'tis not to come; if it be not to come, it will be now; if it be not now, yet it will come: the readiness is all." I would like to think the Nation is ready for this legislation.

I thank the Chair.

By Mr. CAMPBELL:

S. 255. A bill to establish the Commission on Executive Organization; to the Committee on Governmental Affairs.

COMMISSION ON EXECUTIVE ORGANIZATION ACT

Mr. CAMPBELL. Mr. President, I am introducing legislation today that would aid in constructively tackling the problem of Government spending by restructuring the executive branch. This bill was introduced in the last Congress by then-Representative Leon Panetta as an attempt to review and reform our Government processes.

We have all heard the loud calls for change this past year, and one of the loudest calls by the public has been to reform our Federal bureaucracy. According to the latest GAO report, Federal agencies waste billions of American tax dollars every year as a result of financial mismanagement. Duplication of services offered by Federal agencies, for example, is a problem that many citizens encounter, and this frequently results in confusion, inefficiency, and, at times, inaction.

This bill would establish a commission that would examine and then propose the most effective and least disruptive way to decrease the executive branch to not more than eight departments. The Departments of State, Treasury, Justice, and Defense would all remain intact. The seven-member commission would be made up of the Secretary of State, Secretary of the Treasury, Attorney General, Secretary of Defense, OMB Director, and two members appointed by the President.

This commission would also recommend to the President reforms aimed at reorganizing and streamlining independent agencies, Government corporations and Government-sponsored enterprises for those that do not meet a standard set of criteria determined by the commission. In addition, the commission would look at Federal processes that can be more efficiently performed at the State or local level or by the private sector, as well as aim to improve the effectiveness of Presidential oversight of executive agencies. Finally, the commission would be directed to come up with a proposal on how to reduce the number of Federal employees by 5 percent within 5 years after the act becomes law.

All of the commission's recommendations would be outlined in a report to the President within 6 months after the group is formed. The President would then issue an Executive order implementing the recommendations under his control and then issue a report to Congress containing the rec-

ommendations that require legislative action. The commission would cease to exist within 30 days after its final report is issued.

The time to change the way Government operates is long overdue. This act is one step in restoring the public's faith in our system by streamlining and restructuring our Federal bureaucracy. I urge my colleagues to join me in this effort by cosponsoring this bill.

Mr. President, I ask unanimous consent that a copy 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. 255

*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 "Commission on Executive Organization Act".

#### SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the "Commission on Executive Organization" (hereinafter in this Act referred to as the "Commission").

#### SEC. 3. FUNCTIONS OF COMMISSION; REPORT; IMPLEMENTATION OF RECOMMENDATIONS.

(a) FUNCTIONS.—The Commission shall examine and make recommendations with respect to an effective and practicable organization of the executive branch of the Federal Government, including recommendations regarding—

(1) criteria for use by the President and the Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and the Congress in evaluating and overseeing Government-sponsored enterprises, Government corporations, and independent agencies;

(2) the organization of the executive branch into not more than 8 departments, which shall include the Department of State, the Department of the Treasury, the Department of Justice, and the Department of Defense;

(3) the reorganization of independent agencies and Government corporations;

(4) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(5) functions being performed by Federal Government agencies as of the effective date of this Act that should be performed by State or local agencies or by the private sector.

The Commission shall seek to reduce the total number of individuals employed by the Federal Government by 5 percent within 5 years after the effective date of this Act.

(b) REPORT.—The Commission, by not later than 6 months after the completion of appointment of the members of the Commission, shall submit a report to the President which contains a detailed statement of—

(1) its recommendations under subsection (a); and

(2) legislative changes necessary to implement such recommendations.

#### (c) IMPLEMENTATION OF RECOMMENDATIONS.—

(1) EXECUTIVE ORDER.—The President, by as soon as practicable after the date of the re-

ceipt by the President of the Commission report under subsection (b), shall issue an Executive order which implements the recommendations made in the report.

(2) REPORT TO CONGRESS.—The President, by not later than the date the President issues an Executive order under paragraph (1), shall transmit to the Congress a report containing the recommendations for legislation submitted by the Commission under subsection (b)(2).

#### SEC. 4. MEMBERSHIP OF COMMISSION.

(a) IN GENERAL.—The Commission shall consist of 7 members, as follows:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Attorney General of the United States.
- (4) The Secretary of Defense.
- (5) The Director of the Office of Management and Budget.

(6) 2 members appointed by the President from among other officials in the executive branch of the Federal Government.

(b) COMPLETION OF APPOINTMENTS.—The President, by not later than 30 days after the effective date of this Act, shall complete appointment of members of the Commission pursuant to subsection (a)(6) and identify those appointees to the Congress.

(c) CHAIRMAN.—The President shall designate a member of the Commission to be its Chairman.

#### SEC. 5. RESTRICTION ON PAY, ALLOWANCES, AND BENEFITS.

A member of the Commission shall receive no pay, allowances, or benefits by reason of his or her service on the Commission.

#### SEC. 6. POWERS OF COMMISSION.

(a) MEETINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, as the Commission considers appropriate.

(b) RULES.—The Commission may adopt such rules as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

#### (c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this Act. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(2) FACILITIES, SERVICES, AND PERSONNEL.—Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(B) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(e) CONTRACTS FOR RESEARCH AND SURVEYS.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions,

and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this Act.

(f) EXECUTIVE DIRECTOR AND STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this subsection without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this subsection may exceed a rate equal to the maximum rate of pay payable for a position above GS-15 of the General Schedule under section 5108 of such title.

#### SEC. 7. APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.

The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

#### SEC. 8. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under section 3(b).

#### SEC. 9. PREPARATION FOR THE COMMISSION.

Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to the Commission an index to, and synopses of, materials on executive organization that such official considers useful to the Commission. Subject to laws governing the disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organizations.

#### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission not more than \$1,500,000 for carrying out this Act.

#### SEC. 11. EFFECTIVE DATE.

This Act shall take effect on February 1, 1994.

By Mr. HARKIN:

S. 256. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow Medicare administrative funding to combat waste, fraud, and abuse, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

MEDICARE PROGRAM PROTECTION ACT OF 1993

● Mr. HARKIN. Mr. President, today I am reintroducing the Medicare Program Protection Act of 1993. The legislation, if enacted, would protect the Medicare Program from billions of dollars now lost to overpayment, fraud, and abuse. This legislation, if adopted, would save an estimated \$2 billion in its first full year of operation.

Mr. President, this is an issue that I have been following for some time in my capacity as chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee. The very first hearing I held as chairman of the subcommittee in February 1989 was on this issue.

This is now the second time that I have introduced this proposal. Last year, these provisions were approved by Congress as part of a larger bill, H.R. 11, which President Bush pocket-vetoed within days after the 1992 elections. In my view, this was a particularly shortsighted and unfortunate veto and one which has set back the effort to rid Medicare of wasteful and improper spending. That is why I am reintroducing my proposal again today. I want to send a clear message that this new Congress will work with our new President and we will get a grip on soaring health costs and we will start where we should, by putting a lid on overpayments and waste.

Mr. President, we need to make sure that every Medicare dollar is spent prudently and properly. At a time when the Federal budget deficit is setting new records in red ink, it has never been more important to American taxpayers that health care spending be brought under control.

Just this month, the General Accounting Office sounded another warning about widespread and persistent problems in the management of the Medicare Program. The GAO reported that Medicare is losing billions of dollars in improper spending largely because of loose management practices and because of firm oversight of the Nation's largest health care program has not been a high enough priority.

My proposal is based on the remedies recommended to Congress by GAO and would recognize that Medicare's management resources need to keep pace with the rapid rate of growth in Medicare spending.

As the Members know, the Medicare Program is managed by over 60 different contractors, which are responsible for paying Medicare's 700 million claims on time and accurately. These contracts are funded by an appropriation which in 1993 totaled \$1.6 billion, less than 1.5 percent of the total Medicare budget. Included within this line item for Medicare contractors is an amount of \$395 million which supports the efforts to ensure that Medicare claims are audited and that improper payments are prevented.

Even though these payments enforcement activities save \$13 for every \$1 spent, the Bush administration never allocated sufficient resources to these programs. This is because the need to process claims quickly and make payments on time always has taken priority over the more difficult and important job of making sure that claims were paid accurately and that abusive practices are prevented.

During the 4-year period of the Bush administration, total Medicare spending increased by nearly \$50 billion while funding for enforcement increased less than \$25 million. That is the root of the problem. Medicare payments are soaring while the front end of the problem which ensures payment integrity has remained nearly static.

In the spring of 1989, I had discussions with Senator SASSER, chairman of the Senate Budget Committee and with Richard Darman, Director of the Office of Management and Budget. In these discussions, I tried to reach agreement on excusing funds spent on audit activities in the Medicare Program from budget ceilings. The precedent for doing that was included in previous omnibus budget reconciliation bills when the Finance Committee was given credit for directing increased appropriations for this audit activity. So, in other words, the Finance Committee received spending relief by directing discretionary spending to be made by transfers from the trust fund to the audit activities of Medicare. This relief had been given to the Finance Committee. Chairman SASSER and OMB Director Dick Darman, while sympathetic to my arguments, were unable to provide my Appropriations Subcommittee with similar relief.

Mr. President, in the Budget Enforcement Act of 1990, another precedent for what I am now proposing was adopted into law. Included in that act was authority for the IRS to spend up to specified amounts in each of 5 years on audit activities without these additional appropriations being scored against budget ceilings. The logic of this provision is that these additional expenditures will produce collections or revenues for the Government well in excess of the actual amount spent. The logic of this provision is that to unnecessarily inhibit spending on these audit activities is counterproductive to our efforts to reduce the deficit.

Mr. President, the bill I am introducing today is based on exactly the same logic that supports increased funding for IRS audit activity.

The Medicare Protection Act of 1993 will encourage, for each year, starting with fiscal year 1993, through fiscal year 1995, audit activities of the Medicare contractors appropriation to be set at a level of 11.6 percent over the previous year's level. This increased amount over the freeze level would not count against the budget ceilings. These increases in audit activity will permit substantial savings each year.

It is my view that these audit activities should at least keep up with the increased growth rate in claims if we are to have adequate protection for taxpayer dollars. The 11.6-percent allowable growth is included in the legislation as it represents the 10-year historical average of growth in Medicare claims workload.

Mr. President, the Medicare Program Protection Act of 1993, if enacted, would save approximately \$2 billion in the first full year of implementation and additional billions for each year through fiscal year 1995. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 256

*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 "Medicare Program Protection Act of 1993".

**SEC. 2. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.**

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of \$1,526,000,000 for new budget authority) for the administration of the medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1993, \$177,000,000 in new budget authority and \$177,000,000 in outlays;

"(ii) for fiscal year 1994, \$198,000,000 in new budget authority and \$198,000,000 in outlays; and

"(iii) for fiscal year 1995, \$220,000,000 in new budget authority and \$220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph."

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)".

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)"; and

(B) in paragraph (2), by inserting "251(b)(2)(E)," after "251(b)(2)(D)."

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. WELLSTONE, Mr. LEVIN, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. KOHL, Mr. PELL, and Mr. JEFFORDS):

S. 257. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

MINERAL EXPLORATION AND DEVELOPMENT ACT  
OF 1993

Mr. BUMPERS. Mr. President, I am reluctant to make this speech today, because of the presence of the Presiding Officer, the distinguished Senator from West Virginia and chairman of the Appropriations Committee. According to my calculations, he has heard this speech 12 times. He gets to hear it in the Subcommittee on Appropriations for the Interior Department. He gets to hear it in the full Committee on Appropriations, and then he gets to hear it on the floor. And this is now the fourth or fifth year that I have pursued the issue of trying to reform the 1872 mining law.

I have just been reelected for 6 years, Mr. President, and if we do not reform the mining law this year we will be back next year; if we do not do it next year, we will be back for at least 4 more years.

## REFORMATION OF THE 1872 MINING LAW

Mr. President, as you know, in 1872 Ulysses Grant signed the mining bill into law. The authors of this bill said: Come west and file claims for mining on our public lands. File as many claims as you want: 10 claims, 200 acres; 20 claims, 400 acres and so on. And furthermore, if you find any hard-rock minerals such as gold, silver, palladium, platinum, whatever, and you can convince us that there are commercially producible minerals on any one of those claims, we will give you a deed to the land for \$2.50 an acre. And since that time, Mr. President, we have deeded away 3½ million acres, an area equivalent to the size of the State of Connecticut.

In addition to that, there are right now 1,200,000 claims on file, covering 45 million acres. Now, that borders on about 10 percent of all Federal lands open to mining.

Mr. President, think about this: In 1990, I offered an amendment to the Interior appropriations bill on the floor of the Senate to declare a moratorium on this outrageous scam, by prohibiting the BLM, the Bureau of Land Management, from issuing patents or deeds to the land for \$2.50 an acre. I came within two votes of prevailing that year.

Four days later, the Stillwater Mining Co. in Montana filed for patents or deeds to 2,000 acres of land, for which they will pay the U.S. Government the princely sum of \$10,000. They may very well get deeds to this 2,000 acres for \$10,000. And, according to their own estimates, underneath that 2,000 acres of land lies \$32 billion worth of palladium and platinum. The real kicker is the U.S. Government will not receive 1 red cent in royalties—nothing.

When this first came to my attention about 8 years ago, I thought I was reading something out of the National Enquirer; that, surely, such a practice could not exist in the 20th century. But, it exists in spades.

I was speaking with a Republican Senator when I first introduced this bill. I told him the story, and I said I needed Republican cosponsors. I told him about all the egregious cases, where people use these claims to build summer homes and sell them for ski resorts. For instance, one man paid \$500,000 for oil shale patents in Colorado and sold the land for \$47 million.

In Oregon, we gave the deed to about 760 acres in the Oregon National Seashore for \$1,900. People raised a clamor and said: You have to get it back. The Government is trying to get it back—and may pay up to \$12 million for the land. We got \$1,900 for it; now we are buying it back. And the people who bought it from the Federal Government, without ever touching it, want \$12 million for it.

I could go on. All you have to do is read the GAO reports, one after another, after another.

Mr. President, the time has come to stop this nonsense. Last year, when the people of this country voted for change, they did not know much about the horrors of the mining law. The people from the West know all about it. The other roughly 35 States, they do not have Federal lands; they do not have Federal mining. And so they do not really know that much about it. But believe me Mr. President, when they find out they are going to be made.

I have made this speech many times. Most people here are fairly familiar with it. But if you think about it, somewhere between \$1 and \$4 billion worth of hard-rock minerals a year are being taken off Federal lands, and we do not get a dime for it.

Mr. President, there are more than 70 mining sites on the Superfund national priority list that have been abandoned, and estimates range as high as \$50 billion for cleaning those sites up.

As for the Republican Senator, I previously mentioned I gave him a litany of all those abuses. I said, How about cosponsoring my bill?

He said, Shoot, no. I'm going to Nevada and start filing claims. At least, that is honest.

Mr. President, today the Bureau of Land Management requires bonding to ensure reclamation in about only 20 percent of the cases. The mining companies are still abandoning sites for the taxpayers of this country to clean up.

The Nevmont Mining Co. in Nevada, which produces about, I would guess, 80 to 90 percent of all the gold in America, pays on private land in Nevada an 18-percent royalty, and it is going up to 24 percent. And a few miles away, they mine on Federal lands and they do not pay 1 penny in royalties, and they will swear to you they are going broke. And to cap it off, it is a British company. Fifteen out of top 25 mining companies in the United States are either foreign-owned or controlled; 4 of the top 10 are British-controlled.

Now, I ask you, Mr. President, how far do you think you would get if you went to Canada or England, and said, We would like to remove \$4 billion worth of gold off your land this year, file no reclamation plan, and not pay you a nickel for it? It is such an absurdity, I cannot believe I am standing on the floor making an argument about it. Here we are, with a \$300 billion deficit, scratching and clawing in the Presiding Officer's Committee on Appropriations, trying to get a little \$500,000 project for Arkansas that is important to them.

No, we cannot do it unless you can rake up the money someplace else. And I do not argue with that rule. I think the budget agreement in 1990 was just fine, Mr. President.

But I am telling you, in a time of \$300 billion deficits, for us to allow this to continue is the height of irresponsibility.

Now, the reason I am optimistic this year, Mr. President, is because we do not have the same Secretary of the Interior; we have a Governor from the State of Arizona, who understands the issue. And I think, based on what I know of him, he certainly will not defend a practice such as this.

I am talking today not only to my colleagues who live in States that are not affected by the mining law. I have seen poll after poll in Western States where the people, when they understand the issue, overwhelmingly—2 and 3 to 1—say: It is time to change this law.

Mr. President, one final point. There is probably not a single State in the Nation that allows its lands to be mined under any such arrangement. Every State in the Nation that owns State lands and leases it for mining gets a royalty or severance tax, or both.

So all these people who make these chamber of commerce speeches about how I will treat your taxpayer money the way I would if it were my own; I will manage these Federal lands in an environmentally sensitive way, for them to come back up here and vote for a piece of trash like the 1872 mining law is indefensible. And I must say, I consider it the most outrageous scam, legal scam, going on in America today.

But, Mr. President, it took me 8 years to stop the Bureau of Land Management from leasing oil and gas lands by lottery which, incidentally, violated the Criminal Code of the United States. It took 8 years to stop it, giving away lands for \$1 an acre on a first-come, first-serve basis, or pay \$10 and get your name in the hopper. And on bingo night, if they pull out your name and you are the lucky winner, you get this lease for \$1 an acre.

Can you imagine that practice going on since 1920? It took 8 years to stop it. This is the fifth year on mining law.

Mr. President, I divinely hope it will be the last.

To reiterate, Mr. President, I rise today to introduce the Mineral Exploration and Development Act of 1993. I am pleased to have Senators PRYOR, WELLSTONE, LEVIN, HARKIN, MIKULSKI, RIEGLE, LAUTENBERG, FEINGOLD, KOHL, JEFFORDS, PELL, and LEAHY, join me as original cosponsors of this legislation.

The 1872 mining law was signed into law by President Ulysses S. Grant during a time when our national policy was to encourage the settlement of the West with the enticement of free land and minerals. However, 121 years have now passed and the mining law has become a relic. Rather than serve the interests of the public, the mining law gives away billions of dollars worth of land and minerals to mining companies for practically nothing. I fear that Ulysses Grant would turn over in his grave if he knew what had become of the mining law.

While there are many flaws with the 1872 law, some of the most outrageous include:

Allowing the sale of public lands and minerals for \$2.50 to \$5 per acre;

Allowing the mining of valuable minerals without a dime in royalty payments to the Government for those minerals;

Not requiring diligent development and production of minerals on land subject to mining claims;

Allowing speculation and unauthorized uses of public land;

Allowing patented land bought for \$2.50 an acre to be resold at market prices—sometimes thousands of dollars per acre; and

Not adequately protecting the environment or providing for the consideration of other resource values on public lands.

Our attitudes toward public resources have changed since the 19th century and so have most of our public policies. While the mining law has been amended indirectly over the years, its basic provisions remain unchanged and are in dire need of reform. Over the years numerous private, Government, and congressional studies have recommended either revising the mining law or repealing it completely. One of the most thorough modern studies of the mining law was conducted by the Public Land Law Review Commission during the 1960's. The commission's work formed the basis for the Federal Land Policy and Management Act of 1976 [FLPMA]. In "One-third of the Nation's Land—A Report to Congress and the President" the commission stated:

The general mining law of 1872 has been abused, but even without that abuse, it has many deficiencies. Individuals whose primary interest is not in mineral development and production have attempted, under the guise of that law, to obtain use of public lands for various other purposes. The 1872 law offers no means by which the Government can effectively control environmental impacts.

While the Public Land Law Review Commission and many others have called

for comprehensive mining law reform for some time now, Congress has yet to respond. Well Mr. President, the American people sent out a clear message last year and I hope everyone was listening: They do not want to see business as usual in Washington. The American people want to experience a responsible Government for a change, rather than a Government which condones the giveaway of public lands and valuable minerals for practically nothing, and which permits long-term environmental degradation of our public lands.

I introduced legislation in both the 101st and 102d Congresses which would have comprehensively reformed the mining law by prohibiting the sale of land for \$2.50 and \$5 an acre, requiring the payment of a royalty on minerals produced, reclamation and bonding requirements for mineral activities, that mining be treated in the same manner as other competing uses on our public lands, and that a fund be created to help reclaim abandoned hardrock mines. On both occasions the mining industry went to great lengths to ensure that the 1872 Mining Law would not be comprehensively reformed.

On the House side, Congressman RAHALL introduced mining law reform legislation on several occasions as well. Last year the House Interior Committee favorably reported the Rahall bill and all indications were that the full House would have passed the bill had time not run out of the session in October. Congressman RAHALL recently introduced a new version of this bill on January 5.

The legislation I am introducing today is a bipartisan effort. It mirrors, in many respects, the provisions of the House bill. While I am not wedded to each and every word in this bill, I believe that the provisions of this legislation warrant serious consideration by the Senate. As always, I am willing to work with people on all sides of this issue in an attempt to develop a solution amendable to all. However, now is the time for action, rather than words; 121 years after Ulysses Grant signed the mining law, the time has come to bring our Nation's mineral policy into the present.

The problems of the mining law and the proposed solutions contained in my legislation are described more fully below.

#### PROBLEMS WITH THE 1872 MINING LAW AND PROPOSED SOLUTIONS SALE OF FEDERAL LANDS

Under the existing mining law, a patent-fee simple title to a mining claim on Federal lands may be obtained for the purchase price of \$2.50 an acre for a placer claim or \$5 an acre for a lode claim—a price which has not changed since 1872. During the last 120 years, the Government has sold more than 3.2 million acres of land under the patent provision of the 1872 mining law, an

area similar to the size of the State of Connecticut. This is a giveaway—pure and simple—and is directly contrary to the national policy enunciated in the Federal Land Policy and Management Act—that, in most cases, the public lands should be retained in public ownership.

It does not take a rocket scientist to figure out that \$5 an acre is far less than the fair market value of the patented land and the minerals thereon. The General Accounting Office studied 41 patents issued in 1974 and found that the Government received \$12,000 for land that had an estimated fair market value of more than \$1 million. Moreover, in what is perhaps the biggest scam in the history of the mining law, the Stillwater Mining Co., which is jointly owned by Chevron and Manville, has applied for patents on approximately 2,000 acres of forest service land in Montana. In exchange for \$10,000, the company will receive fee title to land containing, according to Stillwater's own reserve estimates, \$32 billion worth of platinum and palladium.

Ironically, while a miner does not need to patent his claim in order to mine it, there is no requirement that a patented claim be mined. Patented claims have become sites for vacation homes, junkyards, tourist facilities, and casinos. While many landowners in western towns trace their chain of title back to mining patents, this historically interesting phenomenon can be a serious resource protection problem when the patented mining claim is an inholding in a national park or wilderness area. There are over 700 patented mining claims in units of the National Park System and almost 1,500 unpatented claims.

A recent example of the abuse of the patent process occurred in the Oregon Dunes National Recreational Area. The area is located on the beautiful southwestern coast of Oregon and is a popular tourist destination. Recently, the BLM issued patents on more than 700 acres of land in the heart of the national recreation area. Although the Material Disposal Act of 1947 and the Common Varieties Act of 1955 had effectively precluded the location and patent of claims for sand and gravel, the claimants relied on an exception in the law for uncommon varieties. While the claimants paid approximately \$2,000 for the patents under the 1872 mining law, they have sought more than \$10 million from the Government for the return of the land—it is no wonder this incident has become known as sandscam.

Under the bill I am introducing today, mining claim holders would no longer be able to patent their claims. The sale of Federal lands for \$2.50 or \$5 an acre would be permanently halted.

#### FREE MINERALS

In addition to allowing the sale of lands for far less than fair market

value, the mining law also allows individuals and corporations to mine valuable minerals from public domain lands without a dime being paid. While oil, gas, and coal producers all pay royalties to the U.S. Treasury for production on Federal lands, the Government does not receive a single cent for hardrock minerals produced on Federal lands subject to the 1872 mining law.

The hardrock mining companies contend that they would be forced to shut down operations if they were required to pay royalties to the Federal Government. However, these same companies find themselves able to pay royalties for mining operations on State and private lands. In fact, the Newmont Mining Co. pays an 18-percent royalty on land acquired from private interests on a portion of its gold quarry mine in Nevada's Carlin trend. Ironically, a hardrock miner operating on acquired Federal lands pays a royalty to the Federal Government while his counterpart on lands subject to the mining law pays nothing. There is no justifiable reason for this difference.

Mr. President, not only are we giving away valuable minerals, but we are giving them away to foreign corporations. In 1991, 15 out of the 25 largest mining companies were owned, in whole or in part, by foreign interests.

Some estimate that \$4 billion worth of hardrock minerals are extracted from the public lands each year. The bill I am introducing today would require the payment to the Secretary of the Interior of not less than an 8-percent royalty on gross income from mineral production. A royalty rate of 8 percent on mineral production of \$4 billion per year would return more than \$300 million to the treasury annually.

#### LACK OF DILIGENT DEVELOPMENT REQUIREMENTS

The third major deficiency of the 1872 mining law is the fact that its annual work requirement no longer promotes the diligent development of mining claims. The 1872 law requires mining claimants to perform \$100 worth of diligent development work on each claim annually. While \$100 was worth something in 1872, in 1993 an annual work requirement of \$100 is meaningless. It is a requirement often observed in the breach because the Bureau of Land Management has no incentive to enforce the requirement. Even when this requirement is complied with, a claimant may merely bulldoze a trench across his claim, causing unnecessary environmental damage.

Last year, Congress established a \$100 holding fee per claim to be applied in fiscal years 1993 and 1994 only. However, so-called small miners—those miners holding 10 claims or less—were given the choice of paying the fee or performing diligent development work. While this provision is certainly an improvement, the issue remains unresolved beyond 1994 and creates a huge

gap by permitting miners holding up to 10 claims—200 acres—to avoid the holding fee altogether and also poses the potential for fraud because it is impossible to police.

My bill would require the payment of a holding fee of \$5 an acre per year for the first 5 years after a claim is located. The fee would double every 5 years up to a maximum of \$25 an acre, reflecting the increased use of Federal land as the mineral deposit is explored and developed.

#### SPECULATION AND AUTHORIZED USES

The laissez faire qualities of the 1872 mining law have attracted speculators and nuisance claims throughout the act's history. In 1916, a Senator from Colorado stated that the mining law has:

\*\*\* created a veritable paradise for the blackmailer and scoundrel. The law has \*\*\* offered and occasionally paid premiums to every disreputable individual who takes advantage of [ITS] possibilities, and there are many unscrupulous people, even in the west. It is easy money, as any miner will tell you to make spurious locations over valuable claims and compel compromises by the uncertainty and expense of litigation.—Senator Charles S. Thomas, quoted in *leshly*, "The Mining Law, A Study In Perpetual Motion," Resources for the Future, 1987.

Under the 1872 mining law a claim is not valid unless there is discovery of a valuable mineral deposit. Just what constitutes a discovery has been and continues to be thrashed out in courts of law. Therefore, someone can file claims with no intention of developing those claims, comply with the meaningless \$100 work requirement, and extort money from legitimate mining companies for the right to develop the claims. A speculator can create a corporation and sell shares of stock in a mythical gold deposit to grandmothers in Iowa. Or how about selling some worthless claims to Uncle Sam?

The Reno Gazette Journal had an interesting story several years ago. "Miner Strikes it Rich With Yucca Mountain Claims; Tonopah Man Settles With DOE for \$249,500," June 4, 1989. The miner had staked some claims on Yucca Mountain, an area the Department of Energy is studying for a possible nuclear waste repository. Although DOE geologists thought the mineral potential of the claims was probably nil, they couldn't afford the time and expense of the litigation and testing required to approve it. So for an investment of \$500 in filing fees and \$20,000 in assessment work on the claims, the miner received \$249,500 from the Federal Government. That's a pretty high nuisance value.

My bill would eliminate the discovery test for claims, substituting the simple and easily verifiable holding fee requirement described above.

#### INADEQUATE PROTECTION OF THE ENVIRONMENT

The 1872 mining law does not reflect modern land use and environmental protection policies. Past mining activi-

ties have left a legacy of unreclaimed lands, acid mine drainage, and hazardous waste. More than 70 abandoned hardrock mining sites are currently on the Superfund national priority list. Some estimate that it could cost taxpayers upward of \$50 billion to clean these sites—"a pickaxe too far", the Economist, April 25, 1992.

Mining operations on public lands are generally subject to environmental laws of general application such as the Clean Air Act, the Clean Water Act, and the Endangered Species Act, as well as State and local environmental laws. Mining claimants are also subject to the surface management regulations promulgated by the agency with jurisdiction over the lands subject to claims, primarily the regulations of the Bureau of Land Management, adopted in 1981, and the Forest Service, adopted in 1974. The goal of these regulations is to "minimize the adverse impacts of mining on other resources," says the Forest Service, or, even worse, to "prevent unnecessary or undue degradation" of the lands, says the BLM.

However, the 1872 mining law does not contain any bonding or reclamation requirements or any requirements for protecting the environment. While the absence of such requirements may have been justifiable 120 years ago, it certainly is no longer acceptable today. While BLM and Forest Service regulations address these issues, their regulations, particularly BLM's are full of loopholes and weak. While approximately 85 percent of all mining plans of operations on Forest Service lands are bonded, bonds are not required for over 80 percent of the mining activities on BLM lands.

The extent to which the environment is protected, however, depends largely upon the attitude of the mining company. The comments of the BLM employees who are responsible for implementing the regulations are instructive.

"Our regulations really are not strong enough for us to enforce compliance in a timely fashion—and sometimes not at all," said Tim Carroll, a BLM geologist in California. "The fact is our regulations do not permit individuals to be held accountable," Seickard of the BLM Folsom office said. "We're a very tolerant agency. Why should the public have to pay to repair their lands that are damaged by identifiable individuals?"—Quoted in "Government Proves to be a Lax Landlord", Sacramento Bee, March 18, 1990.

Some have argued that Federal reclamation requirements are lacking because, as they contend, the States now ensure that adequate reclamation occurs. They claim that crazy environmentalists are focused on damage caused by mining operations conducted long ago, before the States implemented reclamation laws. However, the fact is that reclamation of mining sites on Federal lands remains a problem. For instance, a recent article in the

Denver Post reported that the Summitville Consolidated Mining Co. recently abandoned operations at its gold mine near Wolf Creek Pass in Colorado even though significant questions remain about whether the company's \$3.8-million bond filed under State law is adequate to complete reclamation activities at the site, where "cyanide-laced water has killed almost all aquatic life along 17 miles of the nearby Alamosa River."—"Mining Company Goes Bust," the Denver Post, December 8, 1992.

The mineral Exploration and Development Act of 1993 would provide BLM and the Forest Service with sufficient authority to regulate mining to minimize adverse impacts to the environment. It would mandate reclamation and bonding and would direct the agencies to promulgate specific reclamation standards.

In addition, this legislation would create an abandoned mine reclamation fund to help reclaim the many hardrock mining sites which have been abandoned. Money for the fund would come from a percentage of the royalties collected as well as the rentals and other fees collected under the act. I anticipate that many good-paying jobs associated with abandoned mine reclamation will be created as a result.

#### LAND USE PLANNING

The 1872 mining law contains an implicit presumption that mineral development is the highest and best use of the public land. This presumption, if it was ever valid, is certainly no longer shared by the American people. In contrast to other activities on Federal lands, such as logging, grazing, oil and gas leasing, off-road vehicle use, which are explicitly dealt with in land use plans, the mining law operates independently. When mining activity is initiated on a valid claim, it becomes the dominant land use. Since mining cannot be weighed against other resource values in the land use planning process, the land manager must seek a formal withdrawal of the lands when mining would be incompatible with other land uses.

My bill would provide BLM and the Forest Service with the authority to condition, restrict, or prohibit mineral activities in specific areas where such activities are deemed to conflict with more important resource values. This determination would be made both through a suitability determination process and the land use planning process, which affords the general public as well as the mining industry an opportunity to participate in the agency's decisions. Plans of operation for mining activities would be required to comply with the stipulations and conditions made applicable to the area of operation by a land use plan.

#### BEWARE OF SHAM REFORM

Mr. President, the mining industry knows that the public is slowly learn-

ing about the 1872 Mining Law and the associated atrocities and believe me, the industry is worried. In response, the industry has decided to raise a smokescreen by proposing so-called reforms. For instance, the mining industry has proposed that instead of paying \$2.50 or \$5 an acre for patents, that instead they pay the fair market value of the surface, regardless of the value of the minerals located on the land. While the concept of fair market value is certainly a good one, it is absurd to argue that the Stillwater Mining Co. would really be paying fair market value if they paid for the surface—probably worth less than \$100 an acre—and ignored the value of the platinum and palladium—estimated to be \$32 billion. Mr. President, if you or I ran a company which sold land for such fair market value, we would be fired in a New York minute.

In addition, the mining industry has proposed that rather than impose Federal reclamation standards, State reclamation laws would continue to apply in those States with reclamation requirements and for those States without reclamation laws, the Federal reclamation laws would apply. However, Mr. President, there are no Federal reclamation laws, as pointed out earlier. Moreover, we should not be relying on requirements which vary in effect from State to State to protect the Federal lands. We cannot afford to lay the cost of cleaning up these sites upon the American taxpayers because some State decided it did not want to impose sufficient reclamation requirements.

In short, Mr. President, I urge my colleagues to beware of sham reform. While I have no illusions that the Senate will pass my bill intact, and remain willing to work closely with my opponents, mining law reform must have some teeth.

In conclusion, Mr. President, let me assure my colleagues from the public lands States, my bill, the Mineral Exploration and Development Act of 1993, will retain the features of the 1872 law which the mining industry has indicated are most important: Self initiation, or the right to go out on the public lands to prospect; the exclusive right to develop a claim; security of tenure, or the right to mine the claim to completion; and the right to use as much of the surface as necessary.

President Clinton campaigned last year on the notion of change; that we were not going to continue business as usual in Washington. My legislation is intended to end business as usual and bring the 1872 Mining Law into the 20th century.

I ask unanimous consent that the text of the bill and a summary of its major provisions be printed in the RECORD at the conclusion of my remarks.

Mr. President, I urge support of the long overdue reform of the 1872 Mining Law.

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

S. 257

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**  
(a) SHORT TITLE.—That this Act may be referred to as the "Mineral Exploration and Development Act of 1993".

(b) TABLE OF CONTENTS.—

#### TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

Sec. 101. Definitions, references and coverage  
Sec. 102. Lands open to location; rights under this Act.  
Sec. 103. Location of mining claims.  
Sec. 104. Claim maintenance requirements.  
Sec. 105. Penalties.  
Sec. 106. Preemption.  
Sec. 107. Limitation on patent issuance.  
Sec. 108. Multiple mineral development and surface resources.  
Sec. 109. Mineral materials.

#### TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

Sec. 201. Surface management.  
Sec. 202. Inspection and enforcement.  
Sec. 203. State law and regulation.  
Sec. 204. Unsuitability review.  
Sec. 205. Lands not open to location.

#### TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

Sec. 301. Abandoned Minerals Mine Reclamation Fund.  
Sec. 302. Use and Objectives of the Fund.  
Sec. 303. Eligible Areas.  
Sec. 304. Fund Allocation and Expenditures.  
Sec. 305. State Reclamation Programs.  
Sec. 306. Authorization of Appropriations.

#### TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 401. Policy functions.  
Sec. 402. User fees.  
Sec. 403. Regulations; effective dates.  
Sec. 404. Transitional rules; mining claims and mill sites.  
Sec. 405. Transitional rules; surface management requirements.  
Sec. 406. Basis for contest.  
Sec. 407. Savings clause claims.  
Sec. 408. Severability.  
Sec. 409. Purchasing power adjustment.  
Sec. 410. Royalty.  
Sec. 411. Savings clause.  
Sec. 412. Public records.

#### TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

##### SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.

(a) DEFINITIONS.—As used in this Act:

(1) The term "applicant" means any person applying for a plan of operations under this Act or a modification to or a renewal of a plan of operations under this Act.

(2) The term "claim holder" means the holder of a mining claim located or converted under this Act. Such term may include an agent of a claim holder.

(3) The term "land use plans" means those plans required under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or the land management plans for National Forest System units required under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), whichever is applicable.

(4) The term "legal subdivisions" means an aliquot quarter quarter section of land as es-

established by the official records of the public land survey system, or a single lot as established by the official records of the public land survey system if the pertinent section is irregular and contains fractional lots, as the case may be.

(5) The term "locatable mineral" means any mineral not subject to disposition under any of the following:

(A) the Mineral Leasing Act (30 U.S.C. 181 and following);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(6) The term "mineral activities" means any activity for, related to or incidental to mineral exploration, mining, beneficiation and processing activities for any locatable mineral, including access. When used with respect to this term—

(A) the term "exploration" means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

(B) the term "mining" means the processes employed for the extraction of a locatable mineral from the earth;

(C) the term "beneficiation" means the crushing and grinding of locatable mineral ore and such processes which are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques; and

(D) the term "processing" means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to, smelting and electrolytic refining.

(7) The term "mining claim" means a claim for the purposes of mineral activities.

(8) The term "National Conservation System unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or a National Conservation Area, National Recreation Area or a National Forest Monument.

(9) The term "operator" means any person, partnership or corporation with a plan of operations approved under this Act.

(10) The term "Secretary" means, unless otherwise provided in this Act—

(A) the Secretary of the Interior for the purposes of title I and title III;

(B) the Secretary of the Interior with respect to land under the jurisdiction of such Secretary and all other lands subject to this Act (except for lands under the jurisdiction of the Secretary of Agriculture) for the purposes of title II; and

(C) the Secretary of Agriculture with respect to lands under the jurisdiction of the Secretary of Agriculture for the purposes of title II.

(11) The term "substantial legal and financial commitments" means significant investments that have been made to develop mining claims under the general mining laws such as: long-term contracts for minerals produced; processing, beneficiation, or extraction facilities and transportation infrastructure; or other capital-intensive activities. Costs of acquiring the mining claim or claims, or the right to mine alone without other significant investments as detailed above, are not sufficient to constitute substantial legal and financial commitments.

(12) The term "surface management requirements" means the requirements and

standards of section 201, section 203 and section 204 of this Act, and such other standards as are established by the Secretary governing mineral activities and reclamation.

(b) REFERENCES.—(1) Any reference in this Act to the term "general mining laws" is a reference to those Acts which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162.

(2) Any reference in this Act to the "Act of July 23, 1955", is a reference to the Act of July 23, 1955, entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes." (30 U.S.C. 601 and following).

(c) COVERAGE.—This Act shall apply only to mineral activities and reclamation on lands and interests in land which are open to location as provided in this Act.

#### SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS ACT.

(a) OPEN LANDS.—Mining claims may be located under this Act on lands and interests in lands owned by the United States to the extent that—

(1) such lands and interests were open to the location of mining claims under the general mining laws on the date of enactment of this Act;

(2) such lands and interests are open to the location of mining claims by reason of section 204(f) or section 205 of this Act; and

(3) such lands and interests are opened to the location of mining claims after the date of enactment of this Act by reason of any administrative action or statute.

(b) RIGHTS.—The holder of a mining claim located or converted under this Act and maintained in compliance with this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under section 108 and title II.

#### SEC. 103. LOCATION OF MINING CLAIMS.

(a) GENERAL RULE.—A person may locate a mining claim covering lands open to the location of mining claims by posting a notice of location, containing the person's name and address, the time of location (which shall be the date and hour of location and posting), and a legal description of the claim. The notice of location shall be posted on a conspicuous, durable monument erected as near as practicable to the northeast corner of the mining claim. No person who is not a citizen, or a corporation organized under the laws of the United States or of any State or the District of Columbia, may locate or hold a claim under this Act.

(b) USE OF PUBLIC LAND SURVEY.—Except as provided in subsection (c), each mining claim located under this Act shall—

(1) be located in accordance with the public land survey system, and

(2) conform to the legal subdivisions thereof. Except as provided in subsection (c), the legal description of the mining claim shall be based on the public land survey system and its legal subdivisions.

(c) EXCEPTIONS.—(1) If only a protracted survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The legal description of the mining claim shall be based on the protracted survey and the mining claim shall be located as near as practicable in conformance with a protracted legal subdivision.

(B) The mining claim shall be monumented on the ground by the erection of a conspicu-

ous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object.

(2) If no survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The mining claim shall be a regular square, with each side laid out in cardinal directions, 40 acres in size.

(B) The claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall be expressed in metes and bounds and shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object. Such description shall be of sufficient accuracy and completeness to permit recording of the claim upon the public land records and to permit the Secretary and other parties to find the claim upon the ground.

(3) In the case of a conflict between the boundaries of a mining claim as monumented on the ground and the description of such claim in the notice of location referred to in subsection (a), the notice of location shall be determinative.

(d) FILING WITH SECRETARY.—(1) Within 30 days after the location of a mining claim pursuant to this section, a copy of the notice of location referred to in subsection (a) shall be filed with the Secretary in an office designated by the Secretary.

(2) Whenever the Secretary receives a copy of a notice of location of a mining claim under this Act, the Secretary shall assign a serial number to the mining claim, and immediately return a copy of the notice of location to the locator of the claim, together with a certificate setting forth the serial number, a description of the claim, and the claim maintenance requirements of section 104. The Secretary shall enter the claim on the public land records.

(e) LANDS COVERED BY CLAIM.—A mining claim located under this Act shall include all lands and interests in lands open to location within the boundaries of the claim, subject to any prior mining claim referenced under subsections (c) and (d) of section 404.

(f) DATE OF LOCATION.—A mining claim located under this Act shall be effective based upon the time of location.

(g) CONFLICTING LOCATIONS.—Any conflicts between the holders of mining claims located or converted under this Act relating to relative superiority under the provisions of this Act may be resolved in adjudication proceedings before the Secretary. Such adjudication shall be determined on the record after opportunity for hearing. It shall be incumbent upon the holder of a mining claim asserting superior rights in such proceedings to demonstrate to the Secretary that such person was the senior locator, or if such person is the junior locator, that prior to the location of the claim by such locator—

(1) the senior locator failed to file a copy of the notice of location within the time provided under subsection (d); or

(2) the amount of rental paid by the senior locator was less than the amount required to be paid by such locator pursuant to section 104.

(h) EXTENT OF MINERAL DEPOSIT.—The boundaries of a mining claim located under this Act shall extend vertically downward.

#### SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.

(a) IN GENERAL.—(1) In order to maintain a mining claim under this Act a claim holder

shall pay to the Secretary an annual rental fee. The rental fee shall be paid on the basis of all land within the boundaries of a mining claim at a rate established by the Secretary of not less than—

(A) \$5 per acre in each of the first through fifth years following location of the claim;

(B) \$10 per acre in each of the sixth through tenth years following location of the claim;

(C) \$15 per acre in each of the eleventh through fifteenth years following location of the claim;

(D) \$20 per acre in each of the sixteenth through twentieth years following location of the claim; and

(E) \$25 per acre in the twenty-first diligence year following location of the claim, and each year thereafter.

(2) The rental fee shall be due and payable at a time and in a manner as prescribed by the Secretary.

(b) FAILURE TO COMPLY.—(1) If a claim holder fails to pay the rental fee as required by this section, the Secretary shall immediately provide notice thereof to the claim holder and after 30 days from the date of such notice the claim shall be deemed forfeited and such claim shall be null and void by operation of the law, except as provided under paragraphs (2) and (3). Such notice shall be sent to the claim holder by registered or certified mail to the address provided by such claim holder in the notice of location referred to in section 103(a) or in the most recent instrument filed by the claim holder pursuant to this section. In the event such notice is returned as undelivered, the Secretary shall be deemed to have fulfilled the notice requirements of this paragraph.

(2) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if the claim holder corrects such failure to the satisfaction of the Secretary within 10 days after the date such claim holder was required to pay the rental fee.

(3) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if, within 10 days after date of the notice referred to in paragraph (1), the claim holder corrects such failure to the satisfaction of the Secretary, and if the Secretary determines that such failure was justifiable.

(c) PROHIBITION.—The claim holder shall be prohibited from locating a new claim on the lands included in a forfeited claim for one year from the date such claim is deemed forfeited and null and void, except as provided in subsection (d).

(d) RELINQUISHMENT.—A claim holder deciding not to pursue mineral activity on a claim may relinquish such claim by notifying the Secretary. A claim holder relinquishing a claim is responsible for reclamation as required by section 201 of this Act and all other applicable requirements. A claim holder who relinquishes a claim shall not be subject to the prohibition of subsection (c) of this section; however, if the Secretary determines that a claim is being relinquished and relocated for the purpose of avoiding compliance with any provision of this Act, including payment of the applicable annual rental fee, the claim holder shall be subject to the prohibition in subsection (c) of this section.

(e) SUSPENSION.—Payment of the annual rental fee required by this section shall be suspended upon the payment of the royalty required by section 410 of this Act in an amount equal to or greater than the applicable annual rental fee. During any subsequent period of non-production, or period when the

royalty required by section 410 of this Act is an amount less than the applicable annual rental fee, the claimant shall pay to the Secretary a total amount equal to the applicable annual rental fee.

(f) FEE DISPOSITION.—The Secretary shall deposit all moneys received from rental fees collected under this subsection into the Fund referred to in title III.

#### SEC. 105. PENALTIES.

(a) VIOLATION.—Any claim holder who knowingly or willfully posts on a mining claim or files a notice of location with the Secretary under section 103 that contains false, inaccurate or misleading statements shall be liable for a penalty of not more than \$5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(b) REVIEW.—No civil penalty under this section shall be assessed until the claim holder charged with the violation has been given the opportunity for a hearing on the record under section 202(f).

#### SEC. 106. PREEMPTION.

The requirements of this title shall preempt any conflicting requirements of any State, or political subdivision thereof relating to the location and maintenance of mining claims as provided for by this Act. The filing requirements of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) shall not apply with respect to any mining claim located or converted under this Act.

#### SEC. 107. LIMITATION ON PATENT ISSUANCE.

(a) MINING CLAIMS.—After January 28, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before January 5, 1993; and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) MILL SITES.—After January 28, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws unless the Secretary of the Interior determines that for the mill site concerned—

(1) a patent application for such land was filed with the Secretary on or before January 28, 1993; and

(2) all requirements applicable to such patent application were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

#### SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.

(a) IN GENERAL.—The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C.

524 and 526), commonly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), shall apply to all mining claims located or converted under this Act.

(b) ENFORCEMENT.—The Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall take such actions as may be necessary to ensure the compliance by claim holders with section 4 of the Act of July 23, 1955 (30 U.S.C. 612).

#### SEC. 109. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Strike "or cinders" and insert in lieu thereof "cinders, or clay".

(3) Add the following new subsection at the end thereof:

"(b)(1) Subject to valid existing rights, after the date of enactment of the Mineral Exploration and Development Act of 1993, all deposits of mineral materials referred to in subsection (a), including the block pumice referred to in such subsection, shall only be subject to disposal under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of enactment of the Mineral Exploration and Development Act of 1993, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of the Mineral Exploration and Development Act of 1993 and that such claim continues to be valid."

(b) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(c) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by striking "common varieties of" in the first sentence.

(d) SHORT TITLES.—(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

"Sec. 8. This Act may be cited as the 'Surface Resources Act of 1955'."

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

"Sec. 5. This Act may be cited as the 'Materials Act of 1947'."

(e) REPEAL.—(1) The Act of August 4, 1892 (27 Stat. 348) commonly known as the Building Stone Act is hereby repealed.

(2) The Act of January 31, 1901 (30 U.S.C. 162) commonly known as the Saline Placer Act is hereby repealed.

#### TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

##### SEC. 201. SURFACE MANAGEMENT.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal

Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

(b) PLANS OF OPERATION.—(1) Except as provided under paragraph (2), no person may engage in mineral activities that may cause a disturbance of surface resources unless such person has filed a plan of operations with, and received approval of such plan of operations, from the Secretary.

(2)(A) A plan of operations may not be required for mineral activities related to exploration that cause a negligible disturbance of surface resources not involving the use of mechanized earth moving equipment, suction dredging, explosives, the use of motor vehicles in areas closed to off-road vehicles, the construction of roads, drill pads, or the use of toxic or hazardous materials.

(B) A plan of operations may not be required for mineral activities related to exploration that, after notice to the Secretary, involve only a minimal and readily reclaimable disturbance of surface resources related to and including initial test drilling not involving the construction of access roads, except activities under notice shall not commence until an adequate financial guarantee is established for such activities pursuant to subsection (1).

(c) CONTENTS OF PLANS.—Each proposed plan of operations shall include a mining permit application and a reclamation plan together with such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations.

(d) MINING PERMIT APPLICATION REQUIREMENTS.—The mining permit referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following: (1) The name and mailing address of—

(A) the applicant for the mining permit;  
(B) the operator if different than the applicant;

(C) each claim holder of the lands subject to the plan of operations if different than the applicant;

(D) any subsidiary, affiliate or person controlled by or under common control with the applicant, or the operator or each claim holder, if different than the applicant; and

(E) the owner or owners of any land, or interests in any such land, not subject to this Act, within or adjacent to the proposed mineral activities.

(2) A statement of any plans of operation held by the applicant, operator or each claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant.

(3) A statement of whether the applicant, operator or each claim holder if different than the applicant, and any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant has an outstanding violation of this Act, any surface management requirements, or applicable air and water quality laws and regulations and if so, a brief explanation of the facts involved, including identification of the site and the nature of the violation.

(4) A description of the type and method of mineral activities proposed, the engineering techniques proposed to be used and the equipment proposed to be used.

(5) The anticipated starting and termination dates of each phase of the mineral activities proposed.

(6) A map, to an appropriate scale, clearly showing the land to be affected by the proposed mineral activities.

(7) A description of the quantity and quality of surface and ground water resources within and along the boundaries of, and adjacent to, the area subject to mineral activities based on 12 months of pre-disturbance monitoring.

(8) A description of the biological resources found in or adjacent to the area subject to mineral activities, including vegetation, fish and wildlife, riparian and wetland habitats.

(9) A description of the monitoring systems to be used to detect and determine whether compliance has and is occurring consistent with the surface management requirements and to regulate the effects of mineral activities and reclamation on the site and surrounding environment, including but not limited to, groundwater, surface water, air and soils.

(10) Accident contingency plans that include, but are not limited to, immediate response strategies, corrective measures to mitigate impacts to fish and wildlife, ground and surface waters, notification procedures and waste handling and toxic material neutralization.

(11) Any measures to comply with any conditions on minerals activities and reclamation that may be required in the applicable land use plan, including any condition stipulated pursuant to section 204(d)(1)(B).

(12) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(13) Such environmental baseline data as the Secretary, by rule, shall require sufficient to validate the determinations required for plan approval under this Act.

(e) RECLAMATION PLAN APPLICATION REQUIREMENTS.—The reclamation plan referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) A description of the condition of the land subject to the mining permit prior to the commencement of any mineral activities.

(2) A description of reclamation measures proposed pursuant to the requirements of subsections (m) and (n).

(3) The engineering techniques to be used in reclamation and the equipment proposed to be used.

(4) The anticipated starting and termination dates of each phase of the reclamation proposed.

(5) A description of the proposed condition of the land following the completion of reclamation.

(6) A description of the maintenance measures that will be necessary to meet the surface management requirements of this Act, such as, but not limited to, drainage water treatment facilities, or liner maintenance and control.

(7) The consideration which has been given to making the condition of the land after the completion of mineral activities and final reclamation consistent with the applicable land use plan.

(f) PUBLIC PARTICIPATION.—(1) Concurrent with submittal of a plan of operations, or a renewal application for a plan of operations, the applicant shall publish a notice in a newspaper of local circulation for 4 consecutive weeks that shall include: the name of the applicant, the location of the proposed

mineral activities, the type and expected duration of the proposed mineral activities, and the intended use of the land after the completion of mineral activities and reclamation. The Secretary shall also notify in writing other Federal, State and local government agencies that regulate mineral activities or land planning decisions in the area subject to mineral activities.

(2) Copies of the complete proposed plan of operations shall be made available for public review for 30 days at the office of the responsible Federal surface management agency located nearest to the location of the proposed mineral activities, and at the county courthouse of the county in which the mineral activities are proposed to be located, prior to final decision by the Secretary. During this period, any person and the authorized representative of a Federal, State or local governmental agency shall have the right to file written comments relating to the approval or disapproval of the plan of operations. The Secretary shall immediately make such comments available to the applicant.

(3) Any person that is or may be adversely affected by the proposed mineral activities may request, after filing written comments pursuant to paragraph (2), a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is to be held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(g) PLAN APPROVAL.—(1) After providing notice and opportunity for public comment and hearing, the Secretary may approve, require modifications to, or deny a proposed plan of operations, except as provided in section 405. To approve a plan of operations, the Secretary shall make each of the following determinations:

(A) The mining permit application and reclamation plan are complete and accurate.

(B) The applicant has demonstrated that reclamation as required by this Act can be accomplished under the reclamation plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

(C) The proposed mineral activities, reclamation and condition of the land after the completion of mineral activities and final reclamation would be consistent with the land use plan applicable to the area subject to mineral activities.

(D) The area subject to the proposed plan of operations is not included within an area designated unsuitable under section 204 for the types of mineral activities proposed.

(E) The applicant has demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(2) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsection (1) and, based on information supplied by the applicant, a determination of the probable hydrologic consequences of the proposed mineral activities and reclamation.

(3)(A) A plan of operations under this section shall not be approved if the applicant, operator, or any claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant, is currently in violation of this Act,

any surface management requirement or of any applicable air and water quality laws and regulations at any site where mineral activities have occurred or are occurring.

(B) The Secretary shall suspend an approved plan of operations if the Secretary determines that any of the entities described in section 201(d)(1) were in violation of the surface management requirement at the time the plan of operations was approved.

(C) A plan of operations referred to in this subsection shall not be approved or reinstated, as the case may be, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the Secretary; except that no proposed plan of operations, after opportunity for a hearing, shall be approved for any applicant, operator or each claim holder if different than the applicant with a demonstrated pattern of willful violations of the surface management requirements of such nature and duration and with such resulting irreparable damage to the environment as to clearly indicate an intent not to comply with the surface management requirements.

(h) TERM OF PERMIT; RENEWAL.—(1) The approval of a plan of operations shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed operations, and in no case for more than 10 years, unless the applicant demonstrates that a specified longer term is reasonably needed to obtain financing for equipment and the opening of the operation.

(2) Failure by the operator to commence mineral activities within one year of the date scheduled in an approved plan of operations shall be deemed to require a modification of the plan.

(3) A plan of operations shall carry with it the right of successive renewal upon expiration only with respect to operations on areas within the boundaries of the existing plan of operations, as approved. An application for renewal of such plan of operations shall be approved unless the Secretary determines, in writing, any of the following:

(A) The terms and conditions of the existing plan of operations are not being met.

(B) Mineral activities and reclamation activities as approved under the plan of operations are not in compliance with the surface management requirements of this Act.

(C) The operator has not demonstrated that the financial guarantee would continue to apply in full force and effect for the renewal term.

(D) Any additional revised or updated information required by the Secretary has not been provided.

(E) The applicant has not demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(4) A renewal of a plan of operations shall be for a term not to exceed the period of the original plan as provided in paragraph (1). Application for plan renewal shall be made at least 120 days prior to the expiration of an approved plan.

(5) Any person that is, or may be, adversely affected by the proposed mineral activities may request a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(i) PLAN MODIFICATION.—(1) Except as provided under section 405, during the term of a

plan of operations the operator may submit an application to modify the plan. To approve a proposed modification to a plan of operations the Secretary shall make the determinations set forth under subsection (g)(1). The Secretary shall establish guidelines regarding the extent to which requirements for plans of operations under this section shall apply to applications to modify a plan of operations based on whether such modifications are deemed significant or minor; except that:

(A) any significant modifications shall at a minimum be subject to subsection (f), and

(B) any modification proposing to extend the area covered by the plan of operations (except for incidental boundary revisions) must be made by application for a new plan of operations.

(2) The Secretary may, upon a review of a plan of operations or a renewal application, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

(j) TEMPORARY CESSATION OF OPERATIONS.—(1) Before temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall first submit a complete application for temporary cessation of operations to the Secretary for approval.

(2) The application for approval of temporary cessation of operations shall include such terms and conditions as prescribed by the Secretary, including but not limited to the steps that shall be taken during the cessation of operations period to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations the Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary shall make each of the following determinations:

(A) The methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, shall effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) Reclamation is contemporaneous with mineral activities as required under the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) The amount of financial assurance filed with the plan of operations is sufficient to assure completion of the reclamation plan in the event of forfeiture.

(D) Any outstanding notices of violation and cessation orders incurred in connection with the plan of operations for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary.

(k) REVIEW.—Any decision made by the Secretary under subsections (g), (h), (i), (j) or (l) shall be subject to review under section 202(f).

(l) BONDS.—(1) Before any plan of operations is approved pursuant to this Act, or

any mineral activities are conducted pursuant to subsection (b)(2), the operator shall file with the Secretary financial assurance payable to the United States and conditional upon faithful performance of all requirements of this Act. The financial assurance shall be provided in the form of a surety bond, trust fund, cash or equivalent. The amount of the financial assurance shall be sufficient to assure the completion of reclamation satisfying the requirements of this Act if the work had to be performed by the Secretary in the event of forfeiture, and the calculation shall take into account the maximum level of financial exposure which shall arise during the mineral activity including, but not limited to, provision for accident contingencies.

(2) The financial assurance shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for revegetation under subsection (n)(6)(B).

(3) The amount of the financial assurance and the terms of the acceptance of the assurance shall be adjusted by the Secretary from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, but the financial assurance must otherwise be in compliance with this section. The Secretary shall specify periodic times, or set a schedule, for reevaluating or adjusting the amount of financial assurance.

(4) Upon request, and after notice and opportunity for public comment, the Secretary may release in whole or in part the financial assurance if the Secretary determines each of the following:

(A) Reclamation covered by the financial assurance has been accomplished as required by this Act.

(B) The operator has declared that the terms and conditions of any other applicable Federal requirements, and State requirements pursuant to subsection 203(b), have been fulfilled.

(5) The release referred to in paragraph (4) shall be according to the following schedule:

(A) After the operator has completed the backfilling, regrading and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan of operations, 50 percent of the total financial assurance secured for the area subject to mineral activities may be released.

(B) After the operator has completed successfully all mineral activities and reclamation activities and all requirements of the plan of operations and the reclamation plan and all the requirements of this Act have in fact been fully met, the remaining portion of the financial assurance may be released.

(6) During the period following release of the financial assurance as specified in paragraph (5)(A), until the remaining portion of the financial assurance is released as provided in paragraph (5)(B), the operator shall be required to meet all applicable standards for this Act and the plan of operations and the reclamation plan.

(7) Where any discharge from the area subject to mineral activities requires treatment in order to meet the applicable effluent limitations, the treatment shall be monitored during the conduct of mineral activities and reclamation and shall be fully covered by financial assurance and no financial assurance or portion thereof for the plan of operations shall be released until the operator has met all applicable effluent limitations and water

qualify standards for one full year without treatment.

(8) Jurisdiction under this Act shall terminate upon release of the final bond. If the Secretary determines, after final bond release, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the plan of operations or the surface management requirements of this Act were not fulfilled in fact at the time of release, the Secretary shall reassert jurisdiction and all applicable surface management and enforcement provisions shall apply for correction of the condition.

(m) RECLAMATION.—(1) Except as provided under paragraphs (5) and (7) of subsection (n), lands subject to mineral activities shall be restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans.

(2) All required reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities and shall use the best technology currently available.

(n) RECLAMATION STANDARDS.—The Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following:

(1) SOILS.—(A) Topsoil removed from lands subject to mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a timeframe short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in alike manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

(C) Mineral activities shall be conducted to prevent any contamination or toxicification of soils. If any contamination or toxicification occurs in violation of this subparagraph, the operator shall neutralize the toxic material, decontaminate the soil, and dispose of any toxic or acid materials in a manner which complies with this section and any other applicable Federal or State law.

(2) STABILIZATION.—All surface areas subject to mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area subject to mineral activities, including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of

paragraph (5) and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems, including stream flow, in the area subject to mineral activities and adjacent areas, and in all cases the operator shall comply with applicable Federal or State effluent limitations and water quality standards.

(B) Mineral activities shall prevent the generation of acid or toxic drainage during the mineral activities and reclamation, to the extent possible using the best available demonstrated control technology; and the operator shall prevent any contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

(C) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition.

(D) Where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

(5) GRADING.—(A) Except as provided under this paragraph (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography.

(B) The requirement of subparagraph (A) shall not apply with respect to an open mine pit if the Secretary finds that such open pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or groundwater pollution.

(C) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area subject to mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

(7) EXCESS SPOIL AND WASTE.—(A) Spoil material and waste material in excess of that required to comply with paragraph (5) shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and

drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, fish and wildlife and the environment.

(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during mineral activities shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the post-mining uses or for environmental monitoring.

(10) FISH AND WILDLIFE.—All fish and wildlife habitat in areas subject to mineral activities shall be restored in a manner commensurate with or superior to habitat conditions which existed prior to the mineral activities, including such conditions as may be prescribed by the Director, Fish and Wildlife Service.

(o) ADDITIONAL STANDARDS.—The Secretary may, by regulation, establish additional standards to address the specific environmental impacts of selected methods of mineral activities, such as, but not limited to, cyanide leach mining.

(p) DEFINITIONS.—As used in subsections (m) and (n): (1) The term "best technology currently available" means equipment, devices, systems, methods, or techniques which are currently available anywhere even if not in routine use in mineral activities. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, scheduling of activities and design of sedimentation ponds. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best technology currently available on a case-by-case basis.

(2) The term "best available demonstrated control technology" means equipment, devices, systems, methods, or techniques which have demonstrated engineering and economic feasibility and practicality in preventing disturbances to hydrologic balance during mineral activities and reclamation. Such techniques will have shown to be effective and practical methods of acid and other mine water pollution elimination or control, and other pollution affecting water quality. The "best available demonstrated control technology" will not generally be in routine use in mineral activities. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best available demonstrated control technology on a case-by-case basis.

(3) The term "spoil material" means the overburden, or non-mineralized material of any nature, consolidated or unconsolidated, that overlies a deposit of any locatable mineral that is removed in gaining access to, and extracting, any locatable mineral, or any such material disturbed during the conduct of mineral activities.

(4) The term "waste material" means the material resulting from mineral activities involving beneficiation, including but not limited to tailings, and such material resulting from mineral activities involving proc-

essing, to the extent such material is not subject to subtitle C of the Resource Conservation and Recovery Act of 1976 or the Uranium Mill Tailings Radiation Control Act.

(5) The term "ore piles" means ore stockpiled for beneficiation prior to the completion of mineral activities and reclamation.

(6) The term "subgrade ore" means ore that is too low in grade to be of economic value at the time of extraction but which could reasonably be economical in the foreseeable future.

(7) The term "excess spoil" means spoil material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

(8) The term "excess waste" means waste material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

#### SEC. 202. INSPECTION AND ENFORCEMENT.

(a) INSPECTIONS AND MONITORING.—(1) The Secretary shall make such inspections of mineral activities so as to ensure compliance with the surface management requirements. The Secretary shall establish a frequency of inspections for mineral activities conducted under an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or two complete inspections annually for a plan of operations for which the Secretary approves an application under section 201(j).

(2)(A) Any person who has reason to believe they are or may be adversely affected by mineral activities due to any violation of the surface management requirements may request an inspection. The Secretary shall determine within 10 days of receipt of the request whether the request states a reason to believe that a violation exists, except in the event the person alleges and provides reason to believe that an imminent danger as provided by subsection (b)(2) exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the person filing the complaint and such person shall be allowed to accompany the inspector during the inspection. The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an inspector on the inspection.

(B) The Secretary shall, by regulation, establish procedures for the review of any decision by his authorized representative not to inspect or by a refusal by such representative to ensure remedial actions are taken with respect to any alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(3)(A) The Secretary shall require all operators to develop and maintain a monitoring and evaluation system which shall be capable of identifying compliance with all surface management requirements.

(B) Monitoring shall be conducted as close as technically feasible to the mineral activity or reclamation involved, and in all cases the monitoring shall be conducted within the area affected by mineral activities and reclamation.

(C) The point of compliance shall be as close to the mineral activity involved as is technically feasible, but in any event shall be located to comply with applicable State

and Federal standards. In no event shall the point of compliance be outside the area affected by mineral activities and reclamation.

(D) The operator shall file reports with the Secretary on a quarterly basis on the results of the monitoring and evaluation process except that if the monitoring and evaluation show a violation of the surface management requirements, it shall be reported immediately to the Secretary.

(E) The Secretary shall determine what information must be reported by the operator pursuant to subparagraph (B). A failure to report as required by the Secretary shall constitute a violation of this Act and subject the operator to enforcement action pursuant to this section.

(F) The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section.

(b) ENFORCEMENT.—(1) If the Secretary or authorized representative determines, on the basis of an inspection that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of any surface management requirement, the Secretary or authorized representative shall issue a notice of violation to the operator or person describing the violation and the corrective measures to be taken. The Secretary or authorized representative shall provide such operator or person with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) If the Secretary or authorized representative determines, on the basis of an inspection, that any condition or practice exists, or that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of the surface management requirements, and such condition, practice or violation is causing, or can reasonably be expected to cause—

(A) an imminent danger to the health or safety of the public; or

(B) significant, imminent environmental harm to land, air or water resources;

the Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice or violation.

(3)(A) A cessation order by the Secretary or authorized representative pursuant to paragraphs (1) or (2) shall remain in effect until the Secretary or authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated or terminated by the Secretary or authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record pursuant to subsection (f).

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required

abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

(5) In the event an operator, or person conducting mineral activities under section 201(b)(2), is unable to abate a violation or defaults on the terms of the plan of operation the Secretary shall forfeit the financial assurance for the plan of operations if necessary to ensure abatement and reclamation under this Act.

(6) The Secretary shall not forfeit the financial assurance while a review is pending pursuant to subsections (f) and (g).

(c) COMPLIANCE.—(1) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator, or person conducting mineral activities under section 201(b)(2):

(A) violates, fails or refused to comply with any order issued by the Secretary under subsection (b); or

(B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (a). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for review of such order under subsections (f) and (g), unless the district court granting such relief sets it aside or modifies it.

(2) Notwithstanding any other provisions of law, the Secretary shall utilize enforcement personnel from the Office of Surface Mining Reclamation and Enforcement to augment personnel of the Bureau of Land Management and the Forest Service to ensure compliance with the surface management requirements, and inspection requirements of subsection (a). The Bureau of Land Management and the Forest Service shall each enter into a memorandum of understanding with the Office of Surface Mining Reclamation and Enforcement for this purpose.

(d) PENALTIES.—(1) Any operator, or person conducting mineral activities under section 201(b)(2), who fails to comply with the surface management requirements shall be liable for a penalty of not more than \$5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing under subsection (f).

(2) An operator, or person conducting mineral activities under section 201(b)(2), who fail to correct a violation for which a cessation order has been issued under subsection (b) within the period permitted for its correction shall be assessed a civil penalty of not less than \$1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

(3) Whenever a corporation is in violation of the surface management requirements of fails or refuses to comply with an order issued under subsection (b), any director, officer or agent of such corporation who know-

ingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same penalties that may be imposed upon an operator under paragraph (1).

(e) **CITIZEN SUITS.**—(1) Except as provided under paragraph (2), any person having an interest which is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance—

(A) against the Secretary where there is alleged a violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(B) against any other person alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act or any regulation promulgated pursuant to this Act which is not within the discretion of the Secretary; or

(D) against the Secretary where it is alleged that the Secretary acts arbitrarily or capriciously or in a manner inconsistent with this Act or any regulation promulgated pursuant to this Act. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(2) No action may be commenced except as follows: (A) Under paragraph (1)(A) prior to 60 days after the plaintiff has given notice in writing of such alleged violation to the Secretary, or to the person alleged to be in violation; except no action may be commenced against any person alleged to be in violation if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this title (but in any such action in a court of the United States the person making the allegation may intervene as a matter of right).

(B) Under paragraph (1)(B) prior to 60 days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the environment or to the health or safety of the public or would immediately affect a legal interest of the plaintiff.

(3) Venue of all actions brought under this subsection shall be determined in accordance with title 28 U.S.C. 1391(a).

(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) may award costs of litigation (including attorney and expert witness fees) to any party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, including relief against the Secretary.

(f) **REVIEW BY SECRETARY.**—(1) (A) Any operator, or person conducting mineral activities under section 201(b)(2), issued a notice of

violation or cessation order under subsection (b), or any person having an interest which is or may be adversely affected by such decisions, notice or order, may apply to the Secretary for review of the notice or order within 30 days of receipt thereof, or as the case may be, within 30 days of such notice or order being modified, vacated or terminated.

(B) Any operator, or person conducting mineral activities under section 201(b)(2), who is subject to a penalty under subsection (d) or section 105 may apply to the Secretary for review of the assessment within 30 days of notification of such penalty.

(C) Any person having an interest which is or may be adversely affected by a decision made by the Secretary under subsections (g), (h), (i), (j) and (l) of section 201, or subsection 202(a)(2), or subsection 204(g), may apply to the Secretary for review of the decision within 30 days after it is made.

(2) The Secretary shall provide an opportunity for a public hearing at the request of any party. Any hearing conducted pursuant to this subsection shall be on record and shall be subject to section 554 of title 5 of the United States Code. The filing of an application for review under this subsection shall not operate as a stay of any order or notice issued under subsection (b).

(3) Following the hearing referred to in paragraph (2), if requested, but in any event the Secretary shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying or terminating the notice, order or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under subsection (b), the Secretary shall issue the written decision within 30 days of the receipt of the application for review, unless temporary relief has been granted by the Secretary under paragraph (4).

(4) Pending completion of any proceedings under this subsection, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under subsection (b) together with a detailed statement giving reasons for such relief. The Secretary shall expeditiously issue an order or decision granting or denying such relief. The Secretary may grant such relief under such conditions as he may prescribe only if such relief shall not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights established under subsection (e).

(g) **JUDICIAL REVIEW.**—(1) Any action by the Secretary in promulgating regulations to implement this Act, or any other actions constituting rulemaking by the Secretary to implement this Act, shall be subject to judicial review in the United States District Court for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the United States District Court for the District of Columbia within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking

or who may be adversely affected by the action of the Secretary.

(2) Final agency action under this Act, including such final action on those matters described under subsection (f), shall be subject to judicial review in accordance with paragraph (4) and pursuant to 28 U.S.C. 1391(a) of the United States code on or before 60 days from the date of such final action.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights established under subsection (e).

(4) The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(5) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(h) **PROCEEDINGS.**—Whenever a proceeding occurs under subsection (a), (f), or (g), or under section 201, or under section 204(g), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

#### SEC. 203. STATE LAW AND REGULATION.

(a) **STATE LAW.**—(1) Any reclamation standard or requirement in State law or regulation that meets or exceeds the requirements of subsections (m) and (n) of section 201 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of section 201(l) shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of section 202 shall not be construed to be inconsistent with such requirements.

(b) **APPLICABILITY OF OTHER STATE REQUIREMENTS.**—(1) Nothing in this Act shall be construed as affecting any air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act.

(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, such person's interest in water resources affected by mineral activities on lands subject to this Act.

(c) **COOPERATIVE AGREEMENTS.**—(1) Any state may enter into a cooperative agreement with the Secretary for the purposes of the Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the surface management re-

quirements of this Act for the purposes of such plan of operations.

(3) The Secretary shall not enter into a cooperative agreement with any State under this section until after notice in the Federal Register and opportunity for public comment.

(d) PRIOR AGREEMENTS.—Any cooperative agreement or such other understanding between the Secretary and any State, or political subdivision thereof, relating to the surface management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until the effective date of this Act, after which time the terms and conditions of any such agreement or understanding shall only be applicable to plans of operations approved by the Secretary prior to the effective date of this Act except as provided under section 405.

(e) DELEGATION.—The Secretary shall not delegate to any State, or political subdivision thereof, the Secretary's authorities, duties and obligations under this Act, including with respect to any cooperative agreements entered into under this section.

#### SEC. 204. UNSUITABILITY REVIEW.

(a) IN GENERAL.—The Secretary of the Interior in preparing land use plans under the Federal Land Policy and Management Act of 1976, and the Secretary of Agriculture in preparing land use plans under the forest and rangeland Renewable Resources Planning Act of 1974, shall each conduct a review of lands that are subject to this Act in order to determine whether there are any areas which are suitable for all or certain types of mineral activities pursuant to the standards set forth under subsection (e). In the event such a determination is made, the review shall be included in the applicable land use plan.

(b) SPECIFIC AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, on the basis of any information available, shall each publish a notice in the Federal Register identifying and listing the lands subject to this Act which are or may be determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). After opportunity for public comment and proposals for modifications to such listing, but not later than the effective date of this Act, each Secretary shall begin to review the lands identified pursuant to this subsection to determine whether such lands are unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e).

(c) LAND USE PLANS.—(1) At such time as the Secretary revises or amends a land use plan pursuant to provisions of law other than this Act, the Secretary shall identify lands determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall incorporate such determinations in the applicable land use plans.

(2) If lands covered by a proposed plan of operations have not been reviewed pursuant to this section at the time of submission of a plan of operations, the Secretary shall, prior to the consideration of the proposed plan of operations, review the areas that would be affected by the proposed mineral activities to determine whether the area is unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall use such review in the next revision or amendment to the applicable land use plan to the extent necessary to reflect the

unsuitability of such lands for all or certain types of mineral activities according to the standards set forth in subsection (e).

(3) This section does not require land use plans to be amended until such plans are adopted, revised, or amended pursuant to provisions of law other than this Act.

(d) EFFECT OF DETERMINATION.—(1) If the Secretary determines an area to be unsuitable under this section for all or certain types of mineral activities, he shall do one of the following:

(A) In any instance where a determination is made that an area is unsuitable for all types of mineral activities, the Secretary of the Interior, with the consent of the Secretary of Agriculture for lands under the jurisdiction of the Secretary of Agriculture, shall withdraw such area pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(B) In any instance where a determination is made that an area is unsuitable for certain types of mineral activities, the Secretary shall take appropriate steps to limit or prohibit such types of mineral activities.

(2) Nothing in this section may be construed as affecting lands where mineral activities under approved plans of operations or under notice (as provided for in the regulations of the Secretary of the Interior in effect prior to the effective date of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) were being conducted on the effective date of this Act, except as provided under subsection (g).

(3) Nothing in this section may be construed as prohibiting mineral activities not subject to paragraph (2) where substantial legal and financial commitments in such mineral activities were in existence on the effective date of this Act, but nothing in this section may be construed as limiting any existing authority of the Secretary to regulate such activities.

(4) An unsuitability determination under this section shall not prevent the types of mineral activities referred to in section 201(b)(2)(A), but nothing in this section shall be construed as authorizing such activities in areas withdrawn pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(e) REVIEW STANDARDS.—(1) An area containing lands that are subject to this Act shall be determined to be unsuitable for all or certain types of mineral activities if the Secretary determines, after notice and opportunity for public comment, that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities would substantially impair water quality or supplies within the area subject to the mining plan or adjacent lands, such as impacts on aquifers and aquifer recharge areas;

(B) such mineral activities would occur in areas of unstable geology that could if undertaken substantially endanger life and property;

(C) such mineral activities would adversely affect publicly-owned places which are listed on or are eligible for listing on the National Register of Historic Places, unless the Secretary and the State approve all or certain mineral activities, in which case the area shall not be determined to be unsuitable for such approved mineral activities;

(D) such mineral activities would cause loss of or damage to riparian areas;

(E) such mineral activities would impair the productivity of the land subject to such mineral activities;

(F) such mineral activities would adversely affect candidate species for threatened and endangered species status; or (G) such mineral activities would adversely affect lands designated as National Wildlife Refuges.

(2) An area may be determined to be unsuitable for all or certain mineral activities if the Secretary, after notice and opportunity for public comment, determines that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities could result in significant damage to important historic, cultural, scientific and aesthetic values or to natural systems;

(B) such mineral activities could adversely affect lands of outstanding aesthetic qualities and scenic Federal lands designated as Class I under section 162 of the Clean Air Act (42 U.S.C. 7401 and following);

(C) such mineral activities could adversely affect lands which are high priority habitat for migratory bird species or other important fish and wildlife species as determined by the Secretary in consultation with the Director of the Fish and Wildlife Service and the appropriate agency head for the State in which the lands are located;

(D) such mineral activities could adversely affect lands which include wetlands if mineral activities would result in loss of wetland values;

(E) such mineral activities could adversely affect National Conservation System units; or

(F) such mineral activities could adversely affect lands containing other resource values as the Secretary may consider.

(f) WITHDRAWAL REVIEW.—In conjunction with conducting an unsuitability review under this section, the Secretary shall review all administrative withdrawals of land from the location of mining claims to determine whether the revocation or modification of such withdrawal for the purpose of allowing such lands to be opened to the location of mining claims under this Act would be appropriate as a result of any of the following:

(1) The imposition of any conditions referred to in subsection (d)(1)(B).

(2) The surface management requirements of section 201.

(3) The limitation of section 107.

(g) CITIZEN PETITION.—(1) In any instance where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), any person having an interest that may be adversely affected by potential mineral activities on lands subject to this Act covered by such plan shall have the right to petition the Secretary to determine such lands to be unsuitable for all or certain types of mineral activities. Such petition shall contain allegations of fact with respect to potential mineral activities and with respect to the unsuitability of such lands for all or certain mineral activities according to the standards set forth in subsection (e) with supporting evidence that would tend to establish the allegations.

(2) Petitions received prior to the date of the submission of a proposed plan of operations under this Act, shall stay consideration of the proposed plan of operations pending review of the petition.

(3) Within 4 months after receipt of a petition to determine lands to be unsuitable for all or certain types of mining in areas where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), the Secretary shall hold a

public hearing on the petition in the locality of the area in question. After a petition has been filed and prior to the public hearing, any person may support or oppose the determination sought by the petition by filing written allegations of facts and supporting evidence.

(4) Within 60 days after a public hearing held pursuant to paragraph (3), the Secretary shall issue a written decision regarding the petition which shall state the reasons for granting or denying the requested determination.

(5) Reviews conducted pursuant to this subsection shall be consistent with paragraphs (3) and (4) of subsection (d) and with subsection (e).

#### SEC. 205. LANDS NOT OPEN TO LOCATION.

(a) LANDS.—Subject to valid existing rights, each of the following shall not be open to the location of mining claims under this Act on the date of enactment of this Act:

(1) Lands recommended for wilderness designated by the agency managing the surface, pending a final determination by the Congress of the status of such lands.

(2) Lands being managed by the Bureau of Land Management as wilderness study areas on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(3) Lands within Wild and Scenic River System and lands under study for inclusion in such system, pending a final determination by the Congress of the status of such lands.

(4) Lands identified by the Bureau of Land Management as Areas of Critical Environmental Concern.

(5) Lands identified by the Secretary of Agriculture as Research Natural Areas.

(6) Lands designated by the Fish and Wildlife Service as critical habitat for threatened or endangered species.

(7) Lands administered by the Fish and Wildlife Service.

(8) Lands which the Secretary shall designate for withdrawal under authority of other law, including lands which the Secretary of Agriculture may propose for withdrawal by the Secretary of the Interior under authority of other law.

(b) DEFINITION.—As used in this section, the term "valid existing rights" means that a mining claim located on lands referred to in subsection (a) was properly located and maintained under the general mining laws prior to the date of enactment of this Act, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

#### TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

##### SEC. 301. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) ESTABLISHMENT.—(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter in this title referred to as the "Fund"). The Fund shall be administered by the Secretary of the Interior acting through the Director, Bureau of Land Management.

(2) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgment, required to meet current withdrawals. The

Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs for such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

(1) All moneys received from the collection of rental fees under section 104 of this Act.

(2) Amounts collected pursuant to sections 105 and 202(d) of this Act.

(3) All moneys received from the disposal of mineral materials pursuant to section 3 of the Materials Act of 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

(4) Donations by persons, corporations, associations, and foundations for the purposes of this title.

(5) Amounts referred to in section 410(e)(1) of this Act.

##### SEC. 302. USE AND OBJECTIVES OF THE FUND.

(A) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

(1) Reclamation and restoration of abandoned surface mined areas.

(2) Reclamation and restoration of abandoned milling and processing areas.

(3) Sealing, filling, and grading abandoned deep mine entries.

(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

(6) Control of surface subsidence due to abandoned deep mines.

(7) Such expenses as may be necessary to accomplish the purposes of this title.

(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

##### SEC. 303. ELIGIBLE AREAS.

(a) ELIGIBILITY.—Lands and waters eligible for reclamation expenditures under this Act shall be those within the boundaries of States that have lands subject to this Act and the Materials Act of 1947—

(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this title; and

(2) for which the Secretary makes a determination that there is no continuing reclamation responsibility under State or Federal laws; and

(3) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remaining of such lands, unless such consideration are in conflict with the priorities set forth under paragraphs (1) and (2) of section 302(b).

In determining the eligibility under this subsection of Federal lands and waters under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this title.

##### SEC. 304. FUND ALLOCATION AND EXPENDITURES.

(a) ALLOCATIONS.—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this title.

(2) The Secretary shall distribute moneys from the Fund based on the greatest need for such moneys pursuant to the priorities stated in section 302(b).

(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the Secretary determines that the purposes of this title may best be accomplished otherwise, moneys available from the Fund may be expended directly by the Director, Bureau of Land Management. The Director may also make such money available through grants made to the Chief of the United States Forest Service, the Director of the National Park Service, and any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program, or through cooperative agreements between eligible States and the entities referred to in this subsection.

##### SEC. 305. STATE RECLAMATION PROGRAMS.

(a) ELIGIBLE STATES.—For the purpose of section 304(a), "eligible States" are those States for which the Secretary determines meets each of the following requirements:

(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 303.

(2) The State has developed an inventory of such areas following the priorities established under section 302(b).

(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle.

(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this title.

(c) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals mine reclamation program submitted to the Secretary by a State under this title if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this title and the regulations of the Secretary under this title.

(2) No State, or a contractor for such State engaged in approved reclamation work under this title, or a public entity referred to in section 304(b), shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by a State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

#### SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

#### TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

##### SEC. 401. POLICY FUNCTIONS.

(a) MINERALS POLICY.—The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by adding at the end thereof the following: "It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of paragraphs (1) and (2) of this Act."

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604) is amended by inserting before the period the following: ", except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in Federal land use decisionmaking".

##### SEC. 402. USER FEES.

The Secretaries of Interior and Agriculture are authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for a portion of the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

##### SEC. 403. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act takes effect 1 year after the date of enactment of this Act, except as otherwise provided in this Act.

(b) REGULATIONS.—(1) The Secretary of the Interior shall issue final regulations to implement title I, such requirements of section 402 and 409 as may be applicable to such title, title III and sections 404, 406 and 407 not later than the effective date of this Act specified in subsection (a).

(2) The Secretary of the Interior and the Secretary of Agriculture shall each issue final regulations to implement their respective responsibilities under title II, such requirements of section 402 as may be applicable to such title, and sections 405 and 409 not later than the effective date of this Act referred to in subsection (a). The Secretary of the Interior and the Secretary of Agriculture shall coordinate the promulgation of such regulations.

(3) Failure to promulgate the regulations specified in this subsection by the effective date of this Act by reason of any appeal or judicial review shall not delay the effective date of this Act as specified in subsection (a).

(c) NOTICE.—Within 60 days after the publication of regulations referred to in sub-

section (b)(1), the Secretary of the Interior shall give notice to holders of mining claims and mill sites maintained under the general mining laws as to the requirements of section 404. Procedures for providing such notice shall be established as part of the regulations.

(d) NEW MINING CLAIMS.—Notwithstanding any other provision of law, after the effective date of this Act, a mining claim for a locatable mineral on lands subject to this Act—

(1) may be located only in accordance with this Act,

(2) may be maintained only as provided in this Act, and

(3) shall be subject to the requirements of this Act.

##### SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL SITES.

(a) CLAIMS UNDER THE GENERAL MINING LAWS.—(1) CONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mining claim which was located under the general mining laws before the effective date of this Act may elect to convert the claim under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that claim in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), (f), and (h) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). Once a mining claim has been converted, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(2) UNCONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, any claim referred to in paragraph (1) that has not been converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(3) CONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mill site which was located under the general mining laws before the effective date of this Act may elect to convert the site under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that mill site in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), and (f) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). A mill site converted under this paragraph shall be deemed a mining claim under this Act.

(4) UNCONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, any mill site referred to in paragraph (3) that has not been converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(5) TUNNEL SITES.—Any tunnel site located under the general mining laws on or before the effective date of this Act shall not be recognized as valid unless converted pursuant to paragraph (1). No tunnel sites may be located under the general mining laws after the effective date of this Act.

(b) SPECIAL APPLICATION OF REQUIREMENTS.—For mining claims and mill sites

converted under this section each of the following shall apply:

(1) For the purposes of complying with the requirements of section 103(d)(2), whenever the Secretary receives an election under paragraphs (1) or (3) of subsection (a), as the case may be, he shall provide the certificate referenced in section 103(d)(2) to the holder of the mining claim or mill site.

(2) The first diligence year applicable to mining claims and mill sites converted under this section shall commence on the first day of the first month following the date the holder of such claim or mill site files an election to convert with the Secretary under paragraph (1) or (3) subsection (a), as the case may be, and subsequent diligence years shall commence on the first day of that month each year thereafter.

(3) For the purposes of determining the boundaries of a mining claim to which the rental requirements of section 104 apply for a mining claim or mill site converted under this section, the rental fee shall be paid on the basis of land within the boundaries of the converted mining claim or mill site as described in the notice of location or certificate of location filed under section 314 of the Federal Land Policy and Management Act of 1976.

(c) PRECONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) during the 3-year period referred to in subsections (a)(1) or (a)(3).

(d) POSTCONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) if converted pursuant to subsections (a)(1) or (a)(3).

(e) DISPOSITION OF LAND.—In the event a mining claim is located under this Act for lands encumbered by a prior mining claim or mill site located under the general mining laws, such lands shall become part of the claim located under this Act if the claim or mill site located under the general mining laws is declared null and void under this section or otherwise becomes null and void thereafter.

(f) PRACTICE CONFLICTS.—(1) Any conflicts in existence on or before the date of enactment of this Act between holders of mining claims located under the general mining laws may be resolved in accordance with applicable laws governing such conflicts in effect on the date of enactment of this Act in a court with proper jurisdiction.

(2) Any conflicts not relating to matters provided for under section 103(g) between the holders of a mining claim located under this Act and a mining claim or mill located under the general mining laws arising either before or after the conversion of any such claim or site under this section shall be resolved in a court with proper jurisdiction.

##### SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT REQUIREMENTS.

(A) NEW CLAIMS.—Notwithstanding any other provision of law, any mining claim for a locatable mineral on lands subject to this Act located after the date of enactment of this Act, but prior to the effective date of this Act, shall be subject to such surface management requirements as may be applicable to the mining claim in effect prior to the date of enactment of this Act until the effective date of this Act, at which time such claim shall be subject to the requirements of title II.

(b) PREEXISTING CLAIMS.—Notwithstanding any other provision of law, any unpatented

mining claim or mill site located under the general mining laws shall be subject to the requirements of title II as follows:

(1) In the event a plan of operations had not been approved for mineral activities on any such claim or site prior to the effective date of this Act, the claim or site shall be subject to the requirements of title II upon the effective date of this Act.

(2) In the event a plan of operations had been approved for mineral activities on any such claim or site prior to the effective date of this Act, such plan of operations shall continue in force for a period of 5 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such plan of operations shall apply for a modification under section 201(i). During such 5-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(3) In the event a notice had been filed with the authorized officer in the applicable district office of the Bureau of Land Management (as provided for in the regulations of the Secretary of the Interior in effect prior to the date of enactment of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) prior to the date of enactment of this Act, mineral activities may continue under such notice for a period of 2 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such notice must apply for a modification under section 201(i) unless such mineral activities are conducted pursuant to section 201(b)(2). During such 2-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such notices prior to the effective date of this Act.

(4) In the event a notice (as described in paragraph (3)) had not been filed with the authorized officer in the applicable district office of the Bureau of Land Management prior to the date of enactment of this Act, the claim or site shall be subject to the surface management requirements in effect prior to the effective date of this Act at which time such claims shall be subject to the requirements of title II.

#### SEC. 406. BASIS FOR CONTEST.

(a) **DISCOVERY.**—After the effective date of this Act, a mining claim may not be contested or challenged on the basis of discovery under the general mining laws, except as follows:

(1) Any claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim is located within units of the National Park System, National Wildlife Refuge System, National Wilderness Preservation System, Wild and Scenic Rivers System, National Trails System, or National Recreation Areas designated by an Act of Congress, or within an area referred to in section 205 pending a final determination referenced in such section.

(2) Any mining claim located on or before the effective date of this Act may be contested by the United States on the basis of

discovery under the general mining laws as in effect prior to the effective date of this Act if such claim was located for a mineral material that purportedly has a property giving it distinct and special value within the meaning of section 3(a) of the Act of July 23, 1955, or if such claim was located for a mineral that was not locatable under the general mining laws on or before the effective date of this Act.

(b) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may initiate contest proceedings against those mining claims referred to in subsection (a) at any time, except that nothing in this section may be construed as requiring the Secretary to inquire into or contest the validity of a mining claim for the purpose of the conversion referred to in section 404.

(c) Nothing in this section may be construed as limiting any contest proceedings initiated by the United States under this section on issues other than discovery.

#### SEC. 407. SAVINGS CLAUSE CLAIMS.

(a) Notwithstanding any other provision of law, except as provided under subsection (b), an unpatented mining claim referred to in section 37 of the Mineral Leasing Act (30 U.S.C. 193) may not be converted under section 404 until the Secretary of the Interior determines the claim was valid on the date of enactment of the Mineral Leasing Act and has been maintained in compliance with the general mining laws.

(b) Immediately after the date of enactment of this Act, the Secretary of the Interior shall initiate contest proceedings challenging the validity of all unpatented claims referred to in subsection (a), including those claims for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(c) No claim referred to in subsection (a) shall be declared null and void under section 404 during the period such claim is subject to a proceeding under subsection (b). If, as a result of such proceeding, a claim is determined valid, the holder of such claim may comply with the requirements of section 404(a)(1), except that the 3-year period referred to in such section shall commence with the date of the completion of the contest proceeding.

#### SEC. 408. SEVERABILITY.

If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

#### SEC. 409. PURCHASING POWER ADJUSTMENT.

The Secretary shall adjust all rental rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar every 10 years following the date of enactment of this Act, employing the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

#### SEC. 410. ROYALTY.

(a) **RESERVATION OF ROYALTY.**—Production of locatable minerals (including associated minerals) from any mining claim located or converted under this Act, or mineral concentrates derived from locatable minerals produced from any mining claim located or converted under this Act, as the case may be, shall be subject to a royalty of not less

than 8 percent of the gross income from the production of such locatable minerals or concentrates, as the case may be.

(b) **ROYALTY PAYMENTS.**—Royalty payments shall be made to the United States not later than 30 days after the end of the month in which the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry.

(c) **REPORTING REQUIREMENTS.**—All persons holding claims under this Act shall be required to provide such information as determined necessary by the Secretary to ensure compliance with this section, including, but not limited to, quarterly reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, and amount of all minerals extracted from the mining claim.

(d) **AUDITS.**—The Secretary is authorized to conduct such audits of all persons holding claims under this Act as he deems necessary for the purpose of ensuring compliance with the requirements of this section.

(e) **DISPOSITION OF RECEIPTS.**—All receipts from royalties collected pursuant to this section shall be distributed as follows—

(1) 50 percent shall be deposited into the Fund referred to in title III;

(2) 25 percent collected in any State shall be paid to the State in the same manner as are payments to States under section 35 of the Mineral Leasing Act; and

(3) 25 percent shall be deposited into the Treasury of the United States.

(f) **COMPLIANCE.**—Any person holding claims under this Act who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this section, or fails or refuses to submit such information, shall be subject to the enforcement provisions of section 202 of this Act and forfeiture of the claim.

(g) **REGULATIONS.**—The Secretary shall promulgate regulations to establish gross income for royalty purposes under subsection (a) and to ensure compliance with this section.

(h) **REPORT.**—The Secretary shall submit to the Congress an annual report on the implementation of this section. The information to be included in the report shall include, but not be limited to, aggregate and State-by-State production data, and projections of mid-term and long-term hard rock mineral production and trends on public lands.

#### SEC. 411. SAVINGS CLAUSE.

(a) **SPECIAL APPLICATION OF MINING LAWS.**—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order or land use plan, in effect prior to the effective date of this Act that prohibits or restricts the application of the general mining laws, including such laws that provide for special management criteria for operations under the general mining laws as in effect prior to the effective date of this Act, to the extent such laws provide environmental protection greater than required under this title.

(b) **OTHER FEDERAL LAWS.**—Nothing in this Act shall be construed as superseding, modifying, amending or repealing any provision of Federal law not expressly superseded, modified, amended or repealed by this Act, including but not necessarily limited to, all of the following laws—

(1) the Clean Water Act (33 U.S.C. 1251 and following);

(2) the Clean Air Act (42 U.S.C. 7401 and following);

(3) title IX of the Public Health Service Act (the Safe Drinking Water Act (42 U.S.C. 300f and following));

(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 and following);

(5) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following);

(6) the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(7) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. 7901 to 7942);

(8) the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 and following);

(9) the Solid Waste Disposal Act (42 U.S.C. 6901 and following);

(10) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following);

(11) the Act commonly known as the False Claims Act (31 U.S.C. 3729 to 3731);

(12) the National Historic Preservation Act (16 U.S.C. 470 and following);

(13) the Migratory Bird Treaty Act (16 U.S.C. 706 and following); and

(14) the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.(c)

(c) **PROTECTION OF CONSERVATION AREAS.**—In order to protect the resources and values of Denali National Park and Preserve, and all other National Conservation System units, the Secretary of the Interior or other appropriate Secretary shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities within the boundaries of such units that could have an adverse impact on the resources or values of such units.

**SEC. 412. AVAILABILITY OF PUBLIC RECORDS.**

Copies of records, reports, inspection materials or information obtained by the Secretary under this Act shall be made immediately available to the public, consistent with section 552 of title 5 of the United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities or reclamation.

**MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1993—SUMMARY OF MAJOR PROVISIONS**

**TITLE I—MINING EXPLORATION AND DEVELOPMENT**

**Mining Claims**

Provides that claims are to be located in accordance with the public land survey.

Provides that claim holder files a notice of location with the Secretary, who returns a certificate to the locator with a serial number assigned to the claim, a description of the claim, and claim maintenance requirements.

Provides for civil penalties of up to \$5,000 (per violation) for certain violations of claim location or maintenance requirements.

**Annual Rental**

Provides that a claimant pay an annual rental fee of not less than \$5 per acre for the first five years, escalating in \$5 increments each five years to \$25 per acre for the twenty-first year, and each year thereafter.

**Limitation on Patent Issuance**

Prohibits issuing a patent for any mining claim unless a patent application was filed and all requirements were met by the date of introduction.

**Royalty**

Establishes a royalty of not less than 8 percent of the gross income from production.

**Mineral Materials**

Makes all deposits of mineral materials (i.e. sand, stone, gravel, pumice) saleable pursuant to the Materials Act of 1947, subject to valid existing rights.

**TITLE II—ENVIRONMENTAL CONSIDERATIONS**

**Surface Management—General**

Requires that all mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

Requires approval of a plan of operation for most activities. The plan shall include a mining permit and a reclamation plan.

Provides public notice, comment and hearing procedures for submittal, renewal, or modification of a plan of operation, and for any temporary cessation of operations.

To approve a plan, the Secretary shall determine, among other things: That reclamation would have a high probability of success; that activities, reclamation, and post-mining land condition are consistent with the land use plan; that plan is in compliance with all applicable laws; that adequate bond is furnished; and what are the probable hydrologic consequences of mining.

**Bonding**

Financial assurance required prior to conducting any mineral activities in an amount sufficient to assure complete reclamation.

**Reclamation**

Requires lands be restored to a condition capable of supporting the uses to which lands were capable of supporting prior to mining or other beneficial uses not inconsistent with the lands use plan.

Requires surface to be backfilled, graded and contoured to its natural topography. Provides a variance for open pit mines if the Secretary finds a pit would not pose a threat to public health or safety or have adverse effect on surface or groundwater pollution.

Requires the Secretary to establish reclamation standards, including specified requirements regarding: Topsoil replacement; stabilization of surface areas to effectively control erosion and minimize air and water pollution; minimization of disturbance of hydrologic balance and the quality and quantity of surface and ground water systems; prevention of generation of acid or toxic drainage to the extent possible using the best available demonstrated control technology; prevention of disruption to streamflows and restoration of recharge capacity to premining conditions, to the extent possible; requires water resources used for domestic or agricultural use that have been diminished, contaminated or interrupted to be restored or replaced; revegetation; sealing of surface openings; removal of structures; and restoration of fish and wildlife habitat commensurate to pre-mining conditions.

**Inspection and Enforcement**

Provides for inspections, notices of violation, cessation orders, and injunctive relief under certain conditions for violations of surface management requirements.

Provides procedural requirements for review of the Secretary's actions, including the award of attorney's fees.

Provides penalties for violations of the surface management requirements.

Provides for citizen suits.

**State Law**

Provides that reclamation, bonding or inspection requirements of state law or regulation that meet or exceed the requirements of the Act shall not be inconsistent with the Act.

Provides for cooperative agreements between the Secretary and a state to apply surface management requirements.

**Land Use Planning**

Requires the Secretaries of Interior and Agriculture, in preparing land use plans, to review lands subject to the Act to determine areas that are unsuitable for all or certain types of mining.

If an area is determined to be unsuitable for all mining, the Secretary shall withdraw the lands pursuant to the Federal Land Policy and Management Act (FLPMA). If an area is determined to be unsuitable for certain types of mining, the Secretary shall take steps to limit or prohibit such types of mining.

Provides that the Secretary shall determine, or under certain conditions, may determine, that an area is unsuitable if reclamation would not be technologically and economically feasible and specified conditions are met.

Requires the Secretary to review all administrative withdrawals from mining to determine if the withdrawal should be revoked or modified.

Provides for citizens to petition the Secretary for unsuitability determinations where land use plans have not been amended or completed to reflect unsuitability reviews.

Lists land that, subject to valid existing rights, shall not be open to location.

**TITLE III—ABANDONED MINE RECLAMATION FUND**

Establishes an Abandoned Minerals Mine Reclamation Fund, to be administered by the Bureau of Land Management.

Fund is to be comprised of monies from: hardrock mining rentals and royalties; penalties collected under the bill; monies from disposal of mineral materials pursuant to the Materials Act of 1947, to the extent such monies are not specifically dedicated to other purposes; and donations.

Fund is to be used to reclaim land and water resources in the West adversely affected by past mining of minerals other than coal and fluid minerals.

Lands and waters eligible for reclamation generally include those abandoned prior to date of enactment of the Act (or for lands subject to the surface management regulation of the Forest Service or the BLM, the date on which those regulations became effective) and for which there is no continuing reclamation responsibility.

**TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS**

Provides authority to establish and collect user fees as may be necessary.

Provides transition rules for existing claims and operations.

Mr. KOHL. Mr. President, today I am pleased to join my good friend DALE BUMPERS in introducing legislation to reform the mining law of 1872. I believe that, if enacted, this bill will have positive benefits environmentally and fiscally.

Since the beginning of its history, this Nation has been blessed with an abundance of land and resources. When the mining law of 1872 was enacted, scarcity had more to do with a shortage of people to populate the frontier and exploit its resources, than it did a shortage of resources to meet demands of an expanding population. Times have changed.

No longer is there a rationale for allowing established mining interests to pay 1872 prices to buy public land

worth billions of dollars. No longer can the environmental treasures of our public lands be sacrificed to short-term economic gains. Our Federal budget cannot support that, our environment cannot sustain that, and the citizens of this country will no longer tolerate that.

The hardrock mining companies of this Nation are critical to this Nation's economic livelihood. Of that there is no doubt. As a businessman, I can understand why they would want to resist mining law reform. They know a good deal when they see it. But there is another partner in this deal, and that is the American taxpayer. After 121 years, I believe its time to renegotiate the contract.

By Mr. BROWN:

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate \$1 of any overpayment of income tax, and to contribute other amounts, for the use by the U.S. Olympic Committee; to the Committee on Finance.

UNITED STATES OLYMPIC CHECKOFF ACT OF 1993

• Mr. BROWN. Mr. President, today we would like to introduce the United States Olympic Checkoff Act of 1993. This legislation would authorize a checkoff box on the Federal income tax forms for support of our Olympic athletes. This measure would in no way increase a person's taxes.

Taxpayers could designate \$1 or more of their tax refund to a U.S. Olympic Committee [USOC] trust fund. There would be no contribution whatsoever by taxpayers if the box were not checked off.

The United States is the only Olympic-participating country that doesn't provide direct Government support for the training and facilities of its athletes. The Federal Government shouldn't provide subsidies, but could provide individual Americans with an opportunity to help support our future Olympians.

The U.S. Olympic effort is entirely dependent on private contributions. The enormous cost of maintaining those facilities which train our athletes falls on corporate sponsors and private donors.

Recent USOC financial statements show that 88 percent of its revenues have gone directly for the training of our athletes.

Nine States, including Colorado, have had success with similar checkoffs on their State tax forms. The nine States have contributed almost \$1 million to the USOC.

The 1996 summer Olympic games in Atlanta are fast approaching. With the passage of this tax checkoff, individuals would have a special opportunity to make sure that our athletes are ready to compete with the rest of the world. I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 258

*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 "United States Olympic Checkoff Act".

**SEC. 2. DESIGNATION FOR UNITED STATES OLYMPIC TRUST FUND.**

(a) GENERAL RULE.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

**"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND**

"Sec. 6097. Amounts for United States Olympic Trust Fund.

**"SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST FUND.**

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) \$1 of any overpayment of such tax for such taxable year, and

"(2) any cash contribution which the taxpayer includes with such return.

be paid over to the United States Olympic Trust Fund.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment of \$2 or more, each spouse may designate \$1 of such overpayment under subsection (a)(1).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item.

"Part IX. Designation of overpayments and contributions for United States Olympic Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

**SEC. 3. ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.**

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

**SEC. 9512. UNITED STATES OLYMPIC TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or

credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as the time of such payment less any administrative expenses of the Secretary which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to such Fund."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. United States Olympic Trust Fund."•

By Mr. LEVIN:

S. 259. A bill to require that stock option compensation paid to corporate executives be recorded as a compensation expense in corporate financial statements; to the Committee on Banking, Housing, and Urban Affairs.

**CORPORATE EXECUTIVES' STOCK OPTION ACCOUNTABILITY ACT**

• Mr. LEVIN. Mr. President, I am introducing today the Corporate Executives' Stock Option Accountability Act, a bill to require companies to account for the payment of stock option compensation granted to their executives.

In recent years, the business press has emitted a series of collective gasps at the size of some executive pay packages and the frequent disconnect between executive pay and corporate performance. In 1990, while corporate profits fell 7 percent, the pay of chief executive officers or CEO's of American corporations rose 7 percent. In 1991, while a recession deepened and corporate profits plunged twice as far—by 15 percent—CEO pay climbed another 4 percent.

A 1991 hearing before the Subcommittee on Oversight of Government Management, which I chair, found that CEO pay was outpacing not only corporate performance, but also the pay of other American workers and pay of CEO's in the rest of the world. Witnesses testified that, in the United States, average CEO pay at large corporations in 1990 was approaching \$3 million; that the increase in CEO pay—which, during the 1960's and 1970's, had been roughly proportional to pay in-

creases of other American workers such as engineers, teachers, and factory workers—had, during the 1980's, skyrocketed disproportionately; and that American CEO's are now receiving twice the pay of CEO's at comparably sized companies in such countries as Japan.

In January 1992, my subcommittee held a second hearing which focused on a key element of CEO pay which has contributed to these trends—stock options.

Stock options provide the holder with the right to buy company stock at a set price for a set period of time, usually 10 years. Although companies in other countries like Japan rarely use them, over 90 percent of publicly traded United States companies grant options to their executives. And stock option compensation provides a significant portion of CEO pay, typically 30 or 50 percent and sometimes more.

In April 1992, *Business Week* ran a story entitled, "If CEO Pay Makes You Sick, Don't Look at the Stock Options." It featured the CEO of a medical equipment company who received a 1991 stock option grant valued at \$120 million, on top of previous grants valued at \$225 million, for a 4-year total of \$345 million. The magazine estimated that these options meant every time the company's stock rose \$1, the CEO stood to gain \$6 million. That's not exactly the pay-for-performance link that stock options are supposed to create.

Last month, in December, the business press took note of the \$185 million that the CEO and president of a major entertainment company received after exercising options on over 6.5 million shares of company stock and immediately selling about 5 million of them. The *Wall Street Journal* commented that, "It was one of the single most lucrative transactions in the annals of executive compensation."

While stock options are supposed to reward executives only when company stock prices rise, abuses like megagrants and option swaps have undermined the link between pay and performance and contributed to excessive pay. Stock options also no longer lead to increased stock ownership. Instead, research has shown that executive stock ownership in U.S. corporations has fallen in the last 50 years by a factor of 10, as American CEO's increasingly use stock options to make quick cash profits instead of building a stake in their companies' future.

The legislation I am introducing today, the Corporate Executives' Stock Option Accountability Act, is designed to address one of the core reasons for growing stock option abuses: special accounting rules, backed by the Federal Government, which allow companies to hide an option's true value and cost.

Right now, stock options are the only type of executive pay which com-

panies can deduct as an expense on their tax returns, but don't have to include as an expense in the company books. Keeping stock options off the books as an expense means even huge option grants leave corporate earnings untouched.

For example, a company that pays its CEO \$10 million in cash must lower its earnings to reflect that expense. But a company that provides options valued at \$10 million doesn't. Its earnings never drop—even though the company may eventually claim a tax deduction for millions of dollars.

Charles Munger, vice chairman of Berkshire Hathaway, has described the current accounting rules as "contemptible." Benjamin Bailar, dean of Rice University's graduate school of administration, has stated that, "Common sense dictates that items of executive compensation, including options, do have a very real cost and should be shown in any balanced view of results." A *Barron's* commentator criticizes the current system for creating a "tax subsidy."

The current stock option accounting rules were promulgated by the Financial Accounting Standards Board [FASB], a private body of accountants which issues generally accepted accounting principles for the accounting profession. FASB has voted unanimously and repeatedly since 1984 in favor of reforming the stock option rules. They have admitted, in my subcommittee hearing and elsewhere, that these rules are broken and need to be fixed. Despite their unanimous analysis, FASB has yet to revise them.

The Securities and Exchange Commission [SEC], requires all publicly traded companies to comply with the generally accepted accounting principles promulgated by FASB. The chief accountant of the SEC testified before my subcommittee that he, too, was troubled by current stock option accounting rules and that the SEC has authority, if FASB fails to act, to revise the rules that apply to publicly traded companies. Yet the SEC also has failed to take concrete steps toward reform. The SEC's chief accountant has not even issued a report on the subject, work on which was announced in February 1992, with the final version promised for June 1992. That report has yet to be issued.

Due to FASB and SEC promises to act on this issue, I delayed taking action on legislation I introduced in the last Congress, the Corporate Pay Responsibility Act, S. 1198, to address this and other executive pay issues. To its credit, FASB began detailed consideration of the accounting problem and held a series of meetings throughout 1992 to resolve the complex issues associated with stock option accounting. But FASB missed its self-imposed deadline for issuing new draft rules by the end of the year.

Meanwhile, the SEC took action on several other provisions in my bill, including issuing in October 1992, new regulations revamping executive pay disclosure rules. These new rules include requiring companies to provide in their proxy statements to stockholders more complete and comprehensive information about stock option compensation granted to company executives.

This is a significant reform which will greatly improve disclosure of stock option compensation, and the SEC deserves recognition and praise for this accomplishment. Yet the accounting loophole remains uncorrected, many stock option beneficiaries are devoting themselves to keeping it intact, and neither FASB nor the SEC have taken the concrete steps needed to change the status quo.

I believe it's time for the special treatment to end and for stock option compensation to be brought under the rules of ordinary compensation, with an accounting for their costs.

To accomplish this purpose, my bill would direct the SEC to issue regulations requiring publicly traded companies to recognize as an expense in their financial statements the fair value of stock options granted to their employees. These regulations would include instructions on how companies are to calculate their options' fair value, to ensure that all companies use the same methodology and none manipulates the valuation process.

By requiring that there be a specific valuation method, the bill is not intended to preclude the SEC from developing specific procedures or exceptions to address special circumstances such as stock options issued by new companies or broad-based stock option plans which offer de minimus compensation to all employees. The development of such provisions are a normal part of the regulatory process, and the bill is in no way intended to prevent the SEC from devising distinctions or exceptions, if it deems them appropriate.

Finally, the bill would require the SEC to issue the new regulations within 120 days of enactment, unless it certifies that FASB has already promulgated accounting rules that accomplish the purposes of the bill. This language is intended to provide the accounting profession with one last opportunity to resolve the problem itself, without government action.

Some have asked who is harmed by the current system that keeps stock option compensation off company books as an expense. The answer is American competitiveness.

In too many instances, American companies have been providing their executives with lavish compensation unrelated to company profits, employee layoffs, and the leaner, meaner operations of foreign competitors. That hurts the country's economy, jobs, and

our future prosperity. Stock options have contributed to the problem.

Executive stock options, when properly used, can link pay to performance. But stockholders, the investing public, and the companies themselves ought to know the value of the options being provided and their impact on company finances. Accurate accounting of stock options will not destroy corporate profitability nor halt this type of compensation. All other types of executive pay are already disclosed and included as expenses in the company books, without harming handsome pay levels.

It is not the ideal course for Federal legislation to require the promulgation of specific accounting rules. My preference, as I have stated many times, is for FASB or the SEC to take the action needed on their own. But FASB, while conceding that the issue must be addressed, has left it unaddressed for a decade, and 1 year after they were asked to take action in the absence of Federal legislation, neither FASB nor the SEC has made concrete progress toward issuing revised rules. That is why I am introducing this bill today.

FASB has indicated that it now intends to issue draft stock option accounting rules by April 1, 1993. The date for issuing this draft has been postponed more than once, but I am told that this deadline is one that really will be met. For that reason, I am again delaying action on my legislation, in hope that the accountants themselves will fix the stock option problem. But if FASB again fails to act, and the SEC again fails to step in, I will be back—asking my colleagues to support this bill as the only option left to us.

Runaway executive pay continues to hobble American competitiveness, and stock options continue to contribute to the disconnect between executive pay and corporate performance. The health of the economy is a key challenge facing this Congress, and the people want action now.

I ask unanimous consent that the text of the bill be printed in full following my remarks.

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

S. 259

*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 "Corporate Executives' Stock Option Accountability Act".

**SEC. 2. STOCK OPTION COMPENSATION.**

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) STOCK OPTION COMPENSATION.—

"(1) IN GENERAL.—The Commission shall require an issuer to recognize as an expense in financial statements provided to its security holders the fair value of any stock options granted by such issuer to its directors,

officers, senior executives, or other persons in exchange for services.

"(2) FAIR VALUE.—For purposes of paragraph (1), the Commission shall specify, by rule or regulation, the method for determining the fair value of such stock options.

**SEC. 3. EFFECTIVE DATE.**

Not later than 120 days after the date of enactment of this Act, the Commission shall promulgate final rules and regulations necessary to carry out this Act, unless the Securities and Exchange Commission certifies that the Financial Accounting Standards Board has, prior to the expiration of 120 days after the date of enactment of this Act, promulgated generally accepted accounting principles which accomplish the purposes of this Act.●

By Mr. MCCAIN:

S. 260. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN EDUCATION ASSISTANCE ACT OF 1993

● Mr. MCCAIN. Mr. President, Public Law 100-696 authorized the exchange of federally owned property, known as the Phoenix Indian School, located in downtown Phoenix, AZ, for 108,000 acres of privately owned wetlands in Florida, and other vital considerations.

Upon the exchange of title to the lands, the receiver of the Indian school property, the Barron Collier Co.—Collier—is required by law to begin payment of a \$34.9 million Indian education trust fund. The fund is intended to compensate native Americans in Arizona for the closure of the school located on the property which served native Americans for many years.

The implementing legislation required the Department of the Interior to fully secure the trust fund payments. Last year, the Department of the Interior and Collier agreed to achieve that goal by delaying the transfer of title and the commencement of payments for up to 4 years. I had certainly hoped and anticipated that the Secretary and Collier would be able to secure the trust fund moneys in a manner which would provide for the timely exchange of lands and for trust fund payments to begin immediately. Unfortunately, Secretary Lujan reported that no alternative plan could be implemented without threatening the entire agreement.

Despite my reservations, the good news is that the agreement in principle, including a potential delay in title transfer, will enable the transaction to move forward, thereby preserving the benefits of the exchange for all parties, including native Americans.

But the good news is not good enough. I believe it is incumbent upon the Congress and the Federal Government as trustee to do everything it can

to ensure that the Indian education trust fund is fully funded without delay. I think it's important to note that administrative steps have already been taken to permit the city of Phoenix and the Veterans' Administration to have the immediate benefit of the lands which will ultimately be transferred to them at a later date. Consequently, I believe any Federal funds that are appropriated to implement the act must first go toward establishing the Indian education trust fund. Accordingly, today I'm introducing legislation to authorize the Congress to appropriate the full \$34.9 million for the Indian education trust fund.

Under this legislation, if Congress appropriates either all or a portion of the full \$34.9 million, Collier would be required to reimburse the Federal Treasury under the same terms, and utilizing the same security, as the company would otherwise be required to pay directly into the trust fund.

Under this scenario, payments by Collier to the trust fund and the Treasury would be made under identical terms—those established by the Secretary of the Interior. The underlying premise is that if the trust fund payment schedule negotiated by the Secretary of the Interior is good enough for Arizona's native Americans, then it's good enough for the Federal Government.

Collier is provided no debt relief by this bill. It's my intent, and the effect of this bill, that the company be required to pay the same amount under this legislation as it would under the terms of existing law. Furthermore, the bill includes a provision requiring the Inter-Tribal Council of Arizona and the Navajo Tribe to consent before any alternative form of payment authorized by this bill is implemented in lieu of the form established by the Secretary of the Interior under existing law. This will ensure that native Americans have the final say in the matter.

This legislation seeks to ensure that the native Americans are taken care of first. The Federal Government has a trust responsibility to native Americans. Capitalizing the trust fund without delay fulfills that responsibility by ensuring that Arizona's native Americans do not have to wait for the educational opportunities they need and deserve.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 260

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INDIAN EDUCATION ASSISTANCE TRUST FUNDS.**

(a) ESTABLISHMENT.—

(1) ARIZONA FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Arizona InterTribal Education Assistance Trust Fund subject to the same conditions as described for the Arizona InterTribal Trust Fund in subsections (c) and (d) of section 405 of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696 (here in after "the Act").

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(2) NAVAJO FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Navajo Education Assistance Trust Fund subject to the same conditions as described for the Navajo Trust Fund in subsections (c) and (d) of section 405 of the Act.

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated an aggregate of \$34,900,000 to the funds established in subsection (a) to be allocated in accordance with paragraph (2). In no case shall moneys appropriated pursuant to this authorization diminish or otherwise reduce any Indian amount.

(2) ALLOCATION.—

(A) ARIZONA FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(1) in the same manner as sums are allocated to the Arizona InterTribal Trust Fund pursuant to section 405 of the Act.

(B) NAVAJO FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(2) in the same manner as sums are allocated to the Navajo Trust Fund pursuant to section 405 of such Act.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—

(A) FULL APPROPRIATION.—Notwithstanding title IV of such Act, if the full amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date on which the first annual payment is required to be made by Collier to the Arizona InterTribal Trust Fund and the Navajo Trust Fund under title IV of such Act, and the Trust Fund payment Agreement required under section 403 of such Act, the Secretary of the Interior shall direct Collier to pay to the Secretary of the Treasury for deposit into the general fund of the Treasury any amounts otherwise due and payable to the United States under the Trust Fund Payment Agreement, in lieu of and in full satisfaction of payment to the United States by Collier for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to title IV of such Act and such Trust Fund Payment Agreement.

(B) PARTIAL APPROPRIATION.—Notwithstanding title IV of such Act, if less than the amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date described in subparagraph (A), at such time as Collier is required to make any payment under the Trust Fund Payment Agreement described under subparagraph (A), the Secretary of the Interior shall direct Collier to pay, in full satisfaction and in lieu of such payment: (i) to the Secretary of the Treasury for deposit into the general fund of the Treasury, an amount which bears the same proportion to the total amount of such payment as the

total of the sums appropriated pursuant to subsection (b) bears to \$34,900,000, and (ii) to the Secretary of the Interior for deposit into the Arizona InterTribal Trust Fund and Navajo Trust Fund, in accordance with section 405 of the Act, the remainder of each such payment.

(2) DEFINITION.—As used in this subsection, the term "Collier" has the meaning provided under section 401(5) of such Act.

(d) TERMINATION.—

(1) IN GENERAL.—The funds established in subsection (a) shall terminate on the date of the first Collier payment described in subsection (c)(1)(A).

(2) TRANSFER OF REMAINING SUMS.—Upon termination under paragraph (1)—

(A) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(1) to the Arizona InterTribal Trust Fund established under section 405(a) of such Act; and

(B) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(2) to the Navajo Trust Fund established under section 405(a) of such Act.

(e) No funds appropriated under this Act shall be available to the InterTribal Council of Arizona (ITCA) and Navajo Tribe (as defined in section 401 of the Act) or be deposited into the Interim Trust Funds established by section 1 of this Act unless the ITCA and Navajo Tribe provide written consent to the method of payment established in this Act in lieu of the method of payment provided in the Act and the Trust Fund Payment Agreement authorized by the Act.●

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 261. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

S. 262. A bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes; to the Committee on Environmental and Public Works.

#### SECONDHAND SMOKE

● Mr. LAUTENBERG. Mr. President, I rise today to introduce two bills to protect Americans against environmental tobacco smoke or secondhand smoke. I am introducing these bills for one simple irrefutable reason; secondhand smoke kills.

An EPA report released on January 7, 1993, undeniably confirmed what public health officials have reported for several years, smoking kills those who smoke and those who breathe secondhand smoke. This scientifically peer reviewed report concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene, and arsenic. The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA report, 3,000 lung cancer deaths per year among nonsmokers result from expo-

sure to secondhand smoke. Secondhand smoke also causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations. Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease, and emphysema. They reported that approximately 50 percent of all children are exposed to secondhand smoke.

Now that the evidence is in, it is time for the Congress to take action and protect Americans from this deadly substance. In 1990, the Congress passed the Clean Air Act to regulate 189 hazardous air pollutants which were estimated to cause 1,500 deaths per year. Now we must act to regulate an air pollutant which causes at least 3,000 deaths per year.

The first step we must take is to protect our children, because they are most threatened by secondhand smoke. That is why I am introducing the Preventing Our Kids from Inhaling Deadly Smoke [PRO-KIDS] Act of 1993. PRO-KIDS will protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, Chapter 1, health care, and day care programs. It will require participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 18 or provide other social services primarily to children under the age of 18, including elementary and secondary education.

The legislation I am introducing today to address this threat would require nonsmoking policies that would limit indoor smoking in facilities associated with these federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other organizations shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the rooms used by the children. In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible. This legislation also allows the adoption of the nonsmoking policy to be done through collective bargaining if such an agreement exists.

The second piece of legislation that I am introducing today is called PROTECTING OUR FEDERAL WORKERS AND VISITORS FROM DEADLY SMOKE or PRO-FEDS. This legislation takes an impor-

tant first step to protect adults from unwanted exposure to secondhand smoke. This legislation expands the nonsmoking policy, that already is in place at the U.S. Department of Health and Human Services and the Environmental Protection Agency, to all buildings owned or leased by agencies of the executive, legislative, and judicial branches of the Federal Government. This would include the White House offices and the Congress, but not cover Federal buildings which serve primarily as living quarters. This bill also includes a provision that would also allow unions to adopt this requirement through collective bargaining.

This legislation also provides an expanded role for the Environmental Protection Agency [EPA] with regard to environmental tobacco smoke. Under this legislation, the EPA will establish guidelines for compliance under this act.

This bill also directs the EPA to provide technical assistance to entities which must comply with this act. Under the bill the EPA will conduct an outreach campaign to inform the public about the dangers of environmental tobacco smoke. It also establishes an Environmental Tobacco Smoke Advisory Office within the Office of Radiation and Indoor Air at EPA. With a telephone inquiry hotline, this office will answer inquiries about how to protect people from environmental tobacco smoke.

Now that the studies are completed, it is time to take action to protect people from the dangers of secondhand smoke. The Department of Health and Human Services initially banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. Children are the most vulnerable members of our society. They depend upon us to protect them and safeguard their health. They are the future of this country. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already afford to airplane travelers and some Federal workers?

As a Department of Health and Human Services report notes, "25 years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke." We've come a long way, baby. But we still have a way to go. We should prohibit smoking in federally funded institutions which serve children under the age of 18 immediately, so that our children can breathe healthy air. We must also expand the smoking ban that already exists at the Depart-

ment of Health and Human Services and the Environmental Protection Agency to all agencies in the Federal Government.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

I ask unanimous consent to have a press release from former EPA Administrator Reilly and a New York Times article entitled "U.S. Ties Secondhand Smoke to Cancer" included in the RECORD following this statement. I also ask unanimous consent that these bills be printed in full in the RECORD following this statement.

I urge my colleagues to support and cosponsor this legislation.

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

S. 261

*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 "Preventing Our Kids From Inhaling Deadly Smoke (PRO-KIDS) Act of 1993".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over \$3,000,000,000 per year.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **CHILDREN.**—The term "children" means individuals who have not attained the age of 18.

(3) **CHILDREN'S SERVICES.**—The term "children's services" means—

(A)(i) direct health services routinely provided to children; or

(ii) any other direct services routinely provided primarily to children, including educational services; and

(B) that are funded (in whole or in part) by Federal funds.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

**SEC. 4. NONSMOKING POLICY FOR CHILDREN'S SERVICES.**

(a) **ISSUANCE OF GUIDELINES.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each indoor facility where children's services are provided.

(b) **CONTENTS OF GUIDELINES.**—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each portion of an indoor facility where children's services are provided that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

**SEC. 5. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.**

(a) **TECHNICAL ASSISTANCE.**—The Administrator and the Secretary shall provide technical assistance to persons who provide children's services and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this Act.

**SEC. 6. FEDERALLY FUNDED PROGRAMS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, each person who provides children's services shall establish and make a good-faith effort to enforce a nonsmoking policy that meets or exceeds the requirements of subsection (b).

(b) **NONSMOKING POLICY.**—

(1) **GENERAL REQUIREMENTS.**—A nonsmoking policy meets the requirements of this subsection if the policy—

(A) is consistent with the guidelines issued under section 4(a);

(B) prohibits smoking in each portion of an indoor facility used in connection with the provision of services directly to children; and

(C) where appropriate, requires that signs stating that smoking is not permitted be posted in each indoor facility to communicate the policy.

(2) **PERMISSIBLE FEATURES.**—A nonsmoking policy that meets the requirements of this subsection may allow smoking in those portions of the facility—

(A) in which services are not normally provided directly to children; and

(B) that are ventilated separately from those portions of the facility in which services are normally provided directly to children.

(c) **WAIVER.**—

(1) **IN GENERAL.**—A person described in subsection (a) may publicly petition the head of the Federal agency from which the person receives Federal funds (including financial assistance) for a waiver from any or all of the requirements of subsection (b).

(2) **CONDITIONS FOR GRANTING A WAIVER.**—Except as provided in paragraph (3), the head of the Federal agency may grant a waiver only—

(A) after consulting with the Administrator, and receiving the concurrence of the Administrator;

(B) after giving an opportunity for public hearing (at the main office of the Federal agency or at any regional office of the agency) and comment; and

(C) if the person requesting the waiver provides assurances that are satisfactory to the head of the Federal agency (with the concurrence of the Administrator) that—

(i) unusual extenuating circumstances prevent the person from establishing or enforcing the nonsmoking policy (or a requirement under the policy) referred to in subsection (b) (including a case in which the person shares space in an indoor facility with another entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect children from exposure to environmental tobacco smoke to the maximum extent possible; or

(ii) the person requesting the waiver will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect children from exposure to environmental tobacco smoke to the same degree as the policy (or requirement) under subsection (b).

(3) SPECIAL WAIVER.—

(A) IN GENERAL.—On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(i) took effect before the date of enactment of this Act; and

(ii) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(B) TERMINATION OF WAIVER.—A special waiver granted under this paragraph shall terminate on the earlier of—

(i) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(ii) the date that is 1 year after the date specified in subsection (f).

(d) CIVIL PENALTIES.—

(1) IN GENERAL.—(A) Any person subject to the requirements of this section who fails to comply with the requirements shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, but in no case shall the amount be in excess of the amount of Federal funds received by the person for the fiscal year in which the violation occurred for the provision of children's services.

(B) Each day a violation continues shall constitute a separate violation.

(2) ASSESSMENT.—A civil penalty for a violation of this section shall be assessed by the head of the Federal agency that provided Federal funds (including financial assistance) to the person (or if the head of the Federal agency does not have the authority to issue an order, the appropriate official) by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing the order, the head of the Federal agency (or the appropriate official) shall—

(A) give written notice to the person to be assessed a civil penalty under the order of the proposal to issue the order; and

(B) provide the person an opportunity to request, not later than 15 days after the date of receipt of the notice, a hearing on the order.

(3) AMOUNT OF CIVIL PENALTY.—In determining the amount of a civil penalty under this subsection, the head of the Federal agency (or the appropriate official) shall take into account—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the ability to pay, the effect of the penalty on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and a demonstration of willingness to comply with the requirements of this Act; and

(C) such other matters as justice may require.

(4) MODIFICATION.—The head of the Federal agency (or the appropriate official) may compromise, modify, or remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of the penalty as finally determined or agreed upon in compromise may be deducted from any sums that the United States owes to the person against whom the penalty is assessed.

(5) PETITION FOR REVIEW.—A person who has requested a hearing concerning the assessment of a penalty pursuant to paragraph (2) and is aggrieved by an order assessing a civil penalty may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. The petition may only be filed during the 30-day period beginning on the date of issuance of the order making the assessment.

(6) FAILURE TO PAY.—If a person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and without filing a petition for judicial review in accordance with paragraph (5); or

(B) after a court has entered a final judgment in favor of the head of the Federal agency (or appropriate official),

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the last day of the 30-day period referred to in paragraph (5) or the date of the final judgment, as the case may be) in an action brought in an appropriate district court of the United States. In the action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

(e) EXEMPTION.—This section shall not apply to a person who provides children's services who—

(1) has attained the age of 18;

(2) provides children's services—

(A) in a private residence; and

(B) only to children who are, by affinity or consanguinity, or by court decree, a grandchild, niece, or nephew of the provider; and

(3) is registered and complies with any State requirements that govern the children's services provided.

(f) EFFECTIVE DATE.—This section shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

SEC. 7. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this Act; and

(2) an assessment of the legal status of smoking in public places.

SEC. 8. PREEMPTION.

Nothing in this Act is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this Act.

S. 262

*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 "Preventing Our Federal Building Workers and Visitors From Exposure to Deadly Smoke (PRO-FEDS) Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over \$3,000,000,000 per year.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning provided in section 105 of title 5, United States Code.

(3) FEDERAL AGENCY.—The term "Federal agency" includes any Executive agency, the Executive Office of the President, any military department, any court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and any other agency of the executive, legislative, and judicial branches.

(4) FEDERAL BUILDING.—The term "Federal building" means any building or other structure owned or leased for use by a Federal agency, except that the term shall not include any area of a building that is used primarily as living quarters.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. NONSMOKING POLICY FOR FEDERAL BUILDINGS.

(a) IN GENERAL.—

(1) ISSUANCE OF GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each Federal agency.

(2) CONTENTS OF GUIDELINES.—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each indoor portion of a Federal building that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

(b) ADOPTION OF GUIDELINES.—

(1) IN GENERAL.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the head of each Executive agency, and the Director of the

Administrative Office of the United States Courts shall adopt a nonsmoking policy applicable to the Federal agency under the jurisdiction of the individual that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines.

(2) **LEGISLATIVE BRANCH.**—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the following entities and individuals shall adopt a nonsmoking policy that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines:

(A) With respect to the House of Representatives (including any office space or buildings of the House of Representatives), the House Office Building Commission.

(B) With respect to the Senate (including any office space or buildings of the Senate), the Committee on Rules and Administration of the Senate.

(C) With respect to any other area occupied or used by a Federal agency of the legislative branch, the Architect of the Capitol.

(3) **CERTIFICATION FOR EXECUTIVE AGENCIES.**—The Administrator of General Services, in consultation with the Administrator, shall review each nonsmoking policy adopted by the head of an Executive agency and shall certify those policies that meet the requirements of the guidelines referred to in subsection (a). In carrying out the certification, the Administrator of General Services shall use a procedure and apply criteria that the Administrator shall establish. Except as provided in subsection (c), if a policy does not meet the requirements of the guidelines, the Administrator of General Services shall—

(A) in a written communication, advise the head of the Executive agency concerning modifications of the policy to meet the requirements; and

(B) publish the communication in the Federal Register.

(C) **WAIVERS.**—

(1) **EXECUTIVE AGENCIES.**—The head of an Executive agency may publicly petition the Administrator of General Services for a waiver from instituting or enforcing a nonsmoking policy (or policy requirement) under the guidelines issued pursuant to subsection (a). The Administrator of General Services may waive the requirement if, after consultation with the Administrator, the Administrator of General Services determines that—

(A) unusual extenuating circumstances prevent the head of the Federal agency from enforcing the policy (or a requirement under the policy) (including a case in which the Federal agency shares space in an indoor facility with a non-Federal entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the head of the Executive agency will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the maximum extent possible; or

(B) the head of the Executive agency will enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the same degree as the requirement under the guidelines issued pursuant to subsection (a).

(2) **AGENCIES OF THE JUDICIAL BRANCH.**—After consultation with the Administrator,

and after providing public notice and reasonable opportunity for public review and comment, the Director of the Administrative Office of the United States Courts may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the Director determines to be necessary. The Director may not make any modification that violates the criteria for a waiver under paragraph (1).

(3) **AGENCIES OF THE LEGISLATIVE BRANCH.**—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the appropriate entity or individual referred to in subparagraphs (A) through (C) of subsection (b)(2) may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the entity or individual determines to be necessary. The entity or individual may not make any modification that violates the criteria for a waiver under paragraph (1).

(4) **COLLECTIVE BARGAINING AGREEMENTS.**—

(1) **IN GENERAL.**—In a Federal agency in which a labor organization has been accorded recognition as a bargaining unit pursuant to chapter 71 of title 5, United States Code, the Federal agency shall engage in collective bargaining pursuant to section 7114 of title 5, United States Code, to ensure the implementation of the requirements of this section that affect work areas predominately occupied by the employees represented by the labor organization by the date of the adoption, pursuant to this section, of a nonsmoking policy applicable to the Federal agency.

(2) **EXEMPTION.**—

(A) **IN GENERAL.**—If, on the date of enactment of this Act—

(i) a bargaining unit referred to in paragraph (1) has in effect a collective bargaining agreement with respect to which a Federal agency is a party; and

(ii) the collective bargaining agreement referred to in clause (i) includes provisions relating to smoking privileges that are in violation of the requirements of this section,

the head of the Federal agency may exempt work areas predominately occupied by the employees subject to the collective bargaining agreement from the nonsmoking policy that the Federal agency is required to be carried out under subsection (b).

(B) **TERMINATION OF EXEMPTION.**—

(i) **IN GENERAL.**—An exemption referred to in subparagraph (A) shall terminate on the earlier of—

(I) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(II) the date that is 1 year after the date of issuance of the guidelines.

(ii) **IMPLEMENTATION OF NONSMOKING POLICY AFTER TERMINATION DATE.**—By the applicable date specified in clause (i)(II), the head of each Federal agency shall be required to enforce a nonsmoking policy that meets the requirements of the guidelines issued under subsection (a) in each work area under the jurisdiction of the head of the Federal agency, notwithstanding any collective bargaining agreement that contains provisions that are less restrictive than the nonsmoking policy.

## SEC. 5. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.

(a) **TECHNICAL ASSISTANCE.**—The Administrator and the Secretary shall provide technical assistance to the heads of Federal agencies and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this Act.

(b) **OUTREACH ACTIVITIES.**—

(1) **IN GENERAL.**—The Administrator, in consultation with the Secretary, shall establish an outreach program to inform the public concerning the dangers of environmental tobacco smoke. As part of the outreach program, the Administrator and the Secretary shall make available to the general public brochures and other educational materials. In establishing the programs under this paragraph, the Administrator and the Secretary shall cooperate to maximize the sharing of information and resources.

(2) **ENVIRONMENTAL TOBACCO SMOKE ADVISORY OFFICE.**—

(A) **IN GENERAL.**—The Administrator shall establish within the Office of Radiation and Indoor Air of the Environmental Protection Agency an office, to be known as the "Environmental Tobacco Smoke Advisory Office". The Administrator shall appoint a Director to carry out the functions of the office.

(B) **DUTIES OF THE DIRECTOR.**—The Director shall—

(i) provide information on smoking cessation;

(ii) provide information to assist in compliance with the requirements of this Act;

(iii) provide information on the dangers of environmental tobacco smoke to any person who requests the information;

(iv) establish a telephone hotline to provide information on the dangers of environmental tobacco smoke; and

(v) carry out any other function of the Office that the Administrator determines to be appropriate.

## SEC. 6. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this Act; and

(2) an assessment of the legal status of smoking in public places.

## SEC. 7. PREEMPTION.

Nothing in this Act is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this Act.

[From the New York Times, Jan. 8, 1993]

U.S. TIES SECONDHAND SMOKE TO CANCER

(By Warren E. Leary)

WASHINGTON, January 7.—Secondhand tobacco smoke causes lung cancer that kills an estimated 3,000 nonsmokers a year and subjects hundreds of thousands of children to respiratory disease, the Environmental Protection Agency said today in a long-anticipated report.

The E.P.A. study, issued after four years and several revisions, should serve as a rallying point for government and private efforts to reduce exposure to environmental tobacco smoke, Federal health officials said.

Soon after the report was released, smoking opponents announced several legislative initiatives to place stronger restrictions on smoking in Federal office buildings and other public places. Dr. Louis W. Sullivan,

the Health and Human Services Secretary, said the study would be the basis for public health campaigns encouraging nonsmokers to assert their rights to clean air.

The tobacco industry continued an attack on the report begun earlier in the week, saying the report was based on inadequate scientific data that was "adjusted to fit policy." The Tobacco Institute called the study "another step in a long process characterized by a preference for political correctness over sound science."

#### "EVIDENCE IS CONCLUSIVE"

William K. Reilly, the E.P.A. Administrator, told a news briefing that the report supported a growing scientific consensus that smoking is not just a health risk to smokers but also a significant risk to nonsmokers, particularly spouses and children.

"Environmental tobacco smoke, second-hand smoke, involuntary smoking, passive smoking—whatever you want to call it—has now been shown conclusively to increase the risk of lung cancer in healthy nonsmokers," Mr. Reilly said. "Taken together, the total weight of evidence is conclusive that environmental tobacco smoke increases the risk of lung cancer in nonsmokers."

Mr. Reilly said 434,000 people die annually in the United States from diseases caused or aggravated by cigarette smoking, including 140,000 who die from lung cancer. This puts a smoker's risk of developing lung cancer at between 1 in 10 and 1 in 20, compared with a 20-fold lower lung cancer risk for those who have never smoked, he said.

The E.P.A. study—which was not based on new research but on previously published studies—concluded that 20 percent of all lung cancers caused by factors other than direct inhalation of cigarette smoke were due to indirect, environmental tobacco smoke. This is a risk of about 1 in 1,000, Mr. Reilly said, higher than that of almost any chemical the agency regulates.

#### INFANTS ESPECIALLY VULNERABLE

Higher exposures to secondhand smoke, like that in enclosed homes, small rooms or automobiles, cause higher risks. The spouses of people who smoke at home face a high lung cancer risk of about 2 in 1,000, Mr. Reilly said.

Health officials said the danger to infants and children were particularly alarming. These were among the report's findings on the effects of secondhand smoke on children:

It increases the frequency and severity of symptoms in 200,000 to 1 million children with asthma and also increases the risk of developing asthma.

It causes 150,000 to 300,000 cases of respiratory infections like bronchitis and pneumonia each year in children up to 18 months of age.

It also causes fluid buildup in the middle ear, a condition that can lead to ear infections common in children.

"It is time for Americans who smoke to make the choice to stop," said Dr. Sullivan, who attended the E.P.A. news briefing. "And, in particular, it is irresponsible for smokers to expose young children to the health consequences of the addiction."

#### MORE SMOKING BANS

Dr. Sullivan, noting that 26 percent of American adults still smoke, said his department's Center for Disease Control and Prevention would use the report's findings to begin a public information campaign on the dangers of environmental smoke. The "Secondhand Smoke: We're All At Risk" campaign of television and radio commercials and print advertisements will focus on in-

forming about hazards and "stirring people to action," he said.

Citing the E.P.A. report, Senator Frank R. Lautenberg of New Jersey and Representative Richard J. Durbin of Illinois announced that they would introduce legislation in both chambers of Congress to ban smoking in all Federal office buildings and in almost all indoor places providing federally financed children's services.

The two Democratic legislators, who wrote the bill imposing the 1989 smoking ban on domestic airline flights, said in a statement that the new measure would "protect children from the harmful but invisible threat of environment tobacco smoke."

The New York State Health Commissioner, Dr. Mark Chassin, noting that the E.P.A. report now formally classifies environmental smoke as a Group A carcinogen like benzene and asbestos, said Gov. Mario M. Cuomo would submit legislation to ban smoking from all school grounds. He said the proposal would also seek to toughen smoking restrictions in public places and restrict tobacco advertising.

"This report should also help convince parents to stop exposing their children to harmful effects of tobacco smoke," Dr. Chassin said.

#### IMPACT ON LIABILITY SUITS

The Coalition on Smoking or Health, representing the American Lung Association, the American Heart Association and the American Cancer Society, called on President Bush to heed the E.P.A. report's conclusions and issue an executive order prohibiting smoking in all Federal buildings. Currently, agencies can set their own smoking policies.

Richard A. Daynard, a law professor at Northeastern University in Boston who directs the Tobacco Products Liability Project, said the report is "extremely important" for legal action against the tobacco industry. "This basically marks the end of any debate about whether environmental tobacco smoke causes serious, fatal disease among nonsmokers," Mr. Daynard said in a telephone interview.

But Brennan Dawson of the Tobacco Institute, an industry trade group that strongly criticized the report, said the majority of studies cited by the E.P.A. do not establish that environmental smoke directly causes any diseases. "And to prove liability, you have to prove causation," he said.

#### A DYING SMOKER'S TALE

BELLEVILLE, IL, January 7.—A dying lung-cancer patient who is suing a tobacco company testified today that he began smoking in the fifth grade and continued for most of his life despite health warnings.

The 51-year-old plaintiff, Charles Kueper, recalled that he had understood the dangers of smoking "to the point it stunted your growth, was harder to breathe."

Mr. Kueper, a retired Army master sergeant and truck driver, is suing the R. J. Reynolds Tobacco Company and the Tobacco Institute, which represents the industry, for unspecified damages in St. Clair County Circuit Court here. He claims the defendants concealed the dangers of smoking through misleading advertising.

Mr. Kueper testified that he was already smoking as much as two packs of Winston cigarettes a day when, at the age of 18, he joined the Army in 1959. He did not quit, he said, until late 1990, when doctors told him not to smoke around his wife, who was recovering from surgery. A few months later, in March 1991, he was found to have cancer.

Under questioning by his lawyer, Bruce Cook, Mr. Kueper said cigarettes had been an integral part of his life. In 1981, a doctor told him to quit smoking, he said, adding, "I guess he didn't like what he was hearing" through a stethoscope. Still, the witness testified, he kept smoking.

Mr. Kueper, who has said that his doctor does not expect him to live past spring, told the court he had been aware of warning labels on cigarette packs as early as the 1960's but had paid little heed.

He said that he had tried to quit smoking several times but that "it's not that easy to quit." The longer he went without a cigarette, he said, "the worse it got."

#### EPA DESIGNATES PASSIVE SMOKING A "CLASS A" OR KNOWN HUMAN CARCINOGEN

EPA Administrator William K. Reilly today announced the final conclusions of EPA's assessment on the respiratory health effects of passive smoking. The assessment concludes that Environmental Tobacco Smoke [ETS], also known as secondhand smoke, is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually among U.S. non-smokers. It also concludes that passive smoking results in serious respiratory problems for infants and young children.

Announcing the release of the study today in a joint Washington press conference with Dr. Louis Sullivan, Secretary of the U.S. Department of Health and Human Services, Reilly said, "Today's risk assessment adds new peer-reviewed evidence to the growing scientific consensus that smoking is not just a health danger for smokers, but a significant risk for non-smokers, particularly children who are exposed to secondhand smoke. This report will be an invaluable scientific tool for policymakers and health professionals who are wrestling with the problem of exposure to passive smoke. EPA will work closely with the Department of Health and Human Services and other organizations to ensure that officials around the world are made aware of the findings of this important study."

Tobacco smoke has long been recognized as a major cause of death and disease, especially lung cancer and chronic respiratory disease in smokers. In recent years there has been concern that non-smokers may also be at increased risk as a result of their exposure to the smoke exhaled by smokers and given off by the burning end of cigarettes, pipes or cigars. This smoke contains more than 4,000 substances, at least 43 of which cause cancer in humans or animals and many of which are strong eye or respiratory irritants.

The lung cancer findings in EPA's assessment are based on several important analytical findings: first, the chemical and physical similarity of ETS to that inhaled by smokers; second, the known lung carcinogenicity of tobacco smoke to smokers; third, the known exposure of ETS and uptake by the human body; and fourth, a thorough and comprehensive review of more than 30 studies in both the United States and abroad that examined the relationship between lung cancer and exposure to secondhand smoke in people who never smoked, usually the spouses of smokers. EPA concluded from the total "weight of evidence" of all the studies that ETS increases the risk of lung cancer in non-smokers.

The report also cites some of the specific effects of passive smoking on children. The report's conclusions on childhood respiratory health are based on more than 100 studies in children documenting the fact that second-

hand smoke is a problem for young children and infants. Some of the effects cited:

ETS exposure causes additional episodes and increased severity of symptoms in asthmatic children. The report estimates that 200,000 to 1 million asthmatics have their condition worsened by exposure to ETS.

ETS exposure is a risk factor for new cases of asthma in children who have not previously displayed symptoms.

ETS exposure causes an increased risk of lower respiratory tract infections such as bronchitis and pneumonia in infants and young children. The report estimates that exposure to parents' secondhand smoke will lead to 150,000 to 300,000 cases annually in children up to 18 months old.

ETS exposure causes an increased prevalence of fluid in the middle ear, symptoms of upper respiratory tract irritation and a small yet significant reduction in lung function.

Following a second review in the summer of 1992, EPA's Science Advisory Board (SAB), fully endorsed the risk assessment, including the conclusions that ETS should be classified as a known human carcinogen (officially called an EPA Group A carcinogen, the Agency's category of greatest scientific certainty for known or suspected carcinogens). The SAB also endorsed findings on other respiratory effects. The SAB suggested relatively minor revisions in its November 1992 letter to the Agency. Those revisions have been made. The SAB is EPA's independent panel of outside scientific advisors that routinely reviews draft EPA reports.

EPA also received and reviewed more than 100 comments from the public and integrated appropriate ones into the final risk assessment.

EPA has no authority to regulate any type of smoking, nor is EPA's report binding on the policy or regulatory program of any other federal, state or local government agency or any private organization. In cooperation with other government agencies, EPA will carry out an education and outreach program over the next two years to inform the public and policymakers about what they can do to reduce the health risks of ETS as well as other indoor air pollutants.

This 530-page report, which has been in development since 1988, has been through extensive review and revisions. It was prepared under authority of Title IV of Superfund (The Radon Gas and Indoor Air Quality Research Act of 1986), which directs EPA to conduct a research and information dissemination program on all aspects of indoor air quality.

Today's final report, prepared by the Office of Health and Environmental Assessment in EPA's Office of Research and Development, with major support from the Indoor Air Division of EPA's Office of Air and Radiation, was released in draft to the general public for review and comment in June 1990 and subsequently reviewed by EPA's SAB in December 1990.

Copies of the final report "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders", (EPA/600/6-90/006F) will be available in about three weeks by writing CERL, U.S. EPA, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; or phoning 513-569-7562 or faxing requests to 513-569-7566. The report will also be available through the EPA Indoor Air Quality Information Clearinghouse (IAQ INFO) at 1-800-438-4318. Copies will be available for inspection at EPA Headquarters and EPA Regional Office Libraries and the Federal Depository Libraries.●

By Mr. PRESSLER:

S. 263. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

#### RURAL MEDICAL PROFESSIONALS INCENTIVES

Mr. PRESSLER. Mr. President, today I am reintroducing legislation that would provide incentives for physicians, physician assistants, nurses, and nurse practitioners who agree to practice in a rural community.

It deeply concerns me that health care professionals in rural areas such as South Dakota must struggle so hard to keep their doors open. We must find ways to encourage them to locate in rural areas. That is the purpose behind the legislation I am introducing today.

My legislation would amend the Internal Revenue Code to allow an annual deduction of \$5,000 for principal and interest paid on student loans. In return, physicians would agree to practice for a minimum of 2 consecutive years in a community of 5,000 or fewer individuals, and with a per capita income of \$15,000 or less.

As we all know, much of the health care debate continues to focus on the subject of access to quality care. One crucial question that must be answered is, How can we keep medical professionals in small towns and cities? Answering this question will not solve all the problems. However, it is one tool that can be used to ensure that all Americans living in smaller populated areas have access to health care.

The cost of medical education is excessive for physicians who begin their practices in rural communities with a poor economic base. Statistics indicate there is just 1 physician per 1,465 South Dakotans. Roughly 24 percent of the State's population resides in a health manpower shortage area. There are nearly 40 health manpower shortage areas in South Dakota.

I hope that my colleagues will offer their support for this bill. If enacted, it will help alleviate the extreme health manpower shortages in my State and many other rural areas of the Nation. By increasing the number of physicians in small, rural areas and assisting them in building stable medical practices, this legislation could play a part in helping to resolve the health care crisis in rural America.

Mr. President, I ask 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. 263

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DEDUCTION FOR STUDENT LOAN PAYMENTS BY MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.

(a) INTEREST ON STUDENT LOANS NOT TREATED AS PERSONAL INTEREST.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k))."

(b) QUALIFIED MEDICAL EDUCATION INTEREST DEFINED.—Section 163 of the Internal Revenue Code of 1986 (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED MEDICAL EDUCATION INTEREST OF MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.—

"(1) IN GENERAL.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed \$5,000.

"(3) QUALIFIED RURAL MEDICAL PRACTICE AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) SPECIAL RULE FOR COMPUTING PERIODS.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—THE TERM 'APPLICABLE RURAL COMMUNITY' MEANS—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and  
 "(II) has a per capita income of \$15,000 or less, or

"(ii) an Indian reservation which has a per capita income of \$15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expenses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—  
 "(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner' and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (14) the following new paragraph:

"(15) INTEREST ON STUDENT LOAN OR RURAL HEALTH PROFESSIONAL.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicable in rural areas)."

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

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 264. A bill to establish a classroom for the future program, and for other purposes; to the Committee on Labor and Human Resources.

TECHNOLOGY FOR THE CLASSROOM ACT OF 1993

• Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from New Mexico [Mr. BINGAMAN] in introducing the Technology for the Classroom Act of 1993.

This legislation has two primary objectives. First, it authorizes Federal funding for the development of high-quality curriculum-based software and other supporting materials for use in the Nation's elementary and secondary classrooms. In addition, it will authorize grants to be distributed to States on a formula basis to help improve access to technology, particularly in those schools where lack of resources creates an impediment to the integration of technology into the curriculum.

On January 5, 1993, the Federal Coordinating Council for Science, Engineering, and Technology, chaired by Secretary of Energy James D. Watkins,

released "Pathways to Excellence: A Federal Strategy for Science, Mathematics, Engineering, and Technology Education," which provides a plan for improving the Nation's educational system. This plan is the result of 3 years of coordinated effort by 16 Federal agencies holding membership in the Council's Committee on Education and Human Resources. This report stands as an important landmark, because it lays out clearly identified measurable milestones and objectives for reaching the national education goals by the year 2000.

This strategic plan also provides a framework to link education reform with efforts to establish a national technology initiative to stimulate technology growth and innovation in the private sector. In his introductory letter, Admiral Watkins says:

Without success on both fronts, this nation cannot retain its competitive edge and will not be able to produce the quantity of high quality jobs needed to sustain the economic well being of our people.

Mr. President, this is a strong statement and should be carefully considered as we continue to work toward improving the quality of education in our schools. The strategic plan put forth by this Commission acknowledges the urgency and innovation required to reach the national goals. One method of transforming our schools is through integration of technology in the classroom.

Educational technologies have improved teaching and learning in those schools where resources have been available to incorporate it into the curriculum. The problem is that not many schools and few students have an opportunity to enhance their ability to learn through the use of technology. The disparity between the haves and have nots in the area of technology is one of the most pronounced inequities in education, and it is growing wider. The availability of technology for all students is not just a matter of educational enrichment, but economic survival.

I believe the core of education reform must be the adoption, without exception, of a vigorously held notion that all American children must have equal opportunity to participate in rich, intellectually challenging courses. The use of computers, video discs, top-quality software, and supporting materials will not only increase achievement levels, but will make learning and teaching more fun.

There is already an abundance of educational software on the commercial market. Unfortunately, the quality of this software varies greatly and is not designed to meet the rigorous national standards in core subject areas currently being developed. In order to upgrade the quality of software available to schools and to involve States and local school districts

in the development of technology-based instructional materials that meet the curriculum needs of schools in the State, this bill authorizes the Secretary of Education to award grants of up to \$3 million each to consortia consisting of State and local education agencies in partnership with business and institutions of higher education or private nonprofit organizations. Successful grantees will provide a 25-percent match in private funds and will:

Develop innovative course materials using a broad array of technology-based instructional approaches to help students, particularly disadvantaged students, learn mathematics, science, geography, history, English, and other subjects;

Emphasize teacher training as part of an overall strategy to integrate technology into the classroom; and

Demonstrate the effectiveness of technology-based instruction in achievement levels of students and cost savings to the school.

The bill also establishes grants to States to improve access to technology. Each State must submit a plan detailing a strategy for integrating technology into classrooms with high numbers of disadvantaged students who currently have little or no access to technology-based instructional materials. States with approved plans will receive a grant based on their chapter 1 allotment—with no State receiving less than \$100,000—to improve access to technology-based learning resources.

To facilitate Federal interagency coordination, the Secretary will share curriculum-based educational technological developments with the various Federal agencies. The Secretary will also disseminate information to State education agencies, local education agencies, and others on educational products developed pursuant to this act.

This is important legislation which I hope will serve as a cornerstone to an overall educational technology policy for our Nation's elementary and secondary schools. The United States is regarded as the world leader in higher education. This legislation will help ensure our place at the top in elementary and secondary education. I urge other Senators to join me in support of this bill. •

By Mr. SHELBY (for himself, Mr. INOUE, Mr. WALLOP, Mr. MACK, and Mr. HEFLIN):

S. 265. A bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT

• Mr. SHELBY. Mr. President, I rise today to introduce the Economic

Growth and Regulatory Paperwork Reduction Act of 1993. This legislation will help alleviate the credit crunch without any negative impact on the budget deficit.

Banks play a vital role in our economy. It is no coincidence that this country is experiencing a credit crunch at the same time that banks are struggling to keep up with the regulatory burden. In the current environment, bank lending is discouraged. The current credit crunch is a result of the cumulative effects of compliance paperwork that has been heaped on banks for the last decade. In the past 5 years alone, more than 40 major provisions affecting bank operations have been passed, resulting in hundreds and hundreds of pages of new regulations.

All this redtape comes at a cost. A study released on December 19, 1992, by the Federal Financial Institutions Examination Council included an estimate of regulatory compliance that was as high as \$17.5 billion per year. If this cost were reduced by just 25 percent, that is approximately \$4.4 billion that could be added to bank capital, to support tens of billions in additional lending.

The costs associated with the regulatory burden are gaining recognition. The Clinton administration recognizes the impact of the regulatory burden. At his economic summit in Little Rock, President Clinton said, "They're [banks] still the main source of small business credit. And if you don't do anything about that, you can run the deficit up another \$50 to \$60 billion." Treasury Secretary Lloyd Bentsen followed up on that statement on "Meet the Press" when he responded to a question by David Broder about the credit crunch with, "We'll be looking forward to working with the appropriate committees in the Congress on legislation to assist in that regard."

The bank regulators, including Federal Reserve Chairman Greenspan, have also spoken about the negative effects of the regulatory onslaught on credit availability and economic growth.

To respond to this problem, I have worked with banking and small business experts to put together legislation that will remove the impediments to lending and get the economy moving again. The bill I introduce is comprehensive legislation that attempts to ease some of the unnecessary costs to consumers, eliminates micromanagement of financial institutions, and eliminates those regulations that do nothing more than create paperwork and increase costs to our financial institutions.

However, while this bill is broad, it maintains strict safeguards to protect the safety and soundness of our financial institutions. This bill would leave in place, with little or no modification, the strong supervisory provisions en-

acted in recent years. These include risk-based premiums, strong capital rules, enhanced authority to restrict and close troubled financial institutions, annual audits, more frequent supervisory exams, strong supervisory sanctions, strong criminal sanctions, FDIC back-up authority, and limits on brokered deposits.

We must act now to ease the credit crunch in this country. Small businesses are the engine of this country's economy. Small businesses produce about 40 percent of GNP and 50 percent of the total output of the private sector.

A recent study by Arthur Anderson for National Small Business United found that the largest source of both short-term and long-term capital for all sizes of small businesses is the banking industry. This same survey found that the single most often cited reason why small business owners had difficulties obtaining loans was tighter bank regulations.

It is time to swing the pendulum back in the other direction. It is time to start removing these superfluous layers of regulatory burden. I introduce this bill to call attention to the problem of the regulatory burden and to start a discussion among my colleagues.

I would ask unanimous consent to include with these remarks a copy of an editorial from the Dallas Morning News of December 19, 1992. This editorial sums up perfectly the role that the regulatory burden plays in hindering an economic expansion. I hope my colleagues will read this editorial and then cosponsor my bill.

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

[From the Dallas Morning News, Dec. 19, 1992]

**BANKING—CLINTON SHOULD PURSUE SENSIBLE REGULATORY CLIMATE**

During his Little Rock economic summit, President-elect Bill Clinton seized upon using banks as a means to spur economic growth. If banks increased their lending by 4 percent, the incoming president was told, then \$86 billion in economic expansion would result. That figure clearly turned on a light in the next president's mind; he continued to discuss it throughout the summit.

Now, yes, there is some debate about the exactness of that figure, which was supplied by the president of the American Bankers Association. Some say an increase in lending would lead to much less than \$86 billion, while John Reed of Citicorp estimates the expansion figure could be more like \$100 billion.

Whatever. The fact is, banks do play an important role in expanding the economy. That much is simple, although getting there is difficult.

As the president-elect was told, banks operate under a heavy burden of regulation. Those regulations not only soak up time and money, they also deter more aggressive banking. If you must comply with stringent regulations regarding, say, small business loans, why get involved?

The banking regulatory burden is about to increase. This weekend, the industry begins operating under a new wave of regulations that were passed last year. Among other items, the new regulations allow regulators to close a bank that has less than 2 percent of its assets (i.e., loans), covered by capital (i.e., money put up by a bank and its owners).

Of course, no one should make light of the need for banking supervision, of high capital standards. Banks, after all, should not be allowed to go the way of the savings-and-loan industry. The 1991 banking bill also made important improvements in shoring up the deposit insurance system.

But as Mr. Clinton takes office, it's his job to make sure that misplaced fears not lead to inordinate responses. Consider the new truth-in-savings requirement. Banks now are required by Congress to provide so much information about a savings account that the old days of a putting a sign in a bank lobby to advertise a savings rate is almost antiquated.

Mr. Clinton is right, of course: Banks can indeed play a role in economic expansion. To encourage that role, Mr. Clinton must build upon the Bush administration's record of creating a more sensible regulatory environment. No one wants banks running amok, but neither is it desirable to force them to live under a smothering regulatory shell.●

By Mr. SIMON (for himself and Mr. SARBANES):

S. 266. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

**ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES ACT OF 1993**

● Mr. SIMON. Mr. President, I am pleased to be joined by my colleague, Senator SARBANES from Maryland in introducing the Elementary and Secondary School Library Media Services Act.

Access to adequate library facilities is essential to the effective education of our Nation's young people. Library and media spending affects student achievement more than any other school expenditure. Yet in recent years, our school libraries have not received the funding they need to effectively serve students and teachers.

The Elementary and Secondary Education Act of 1965 provided separate funding for school library programs. During the 1970's and 1980's, however, Congress merged funding for all school programs into block grants. As a result of the merger, funding for school libraries declined dramatically. The lack of funding has taken a heavy toll on the state of our school libraries. In California, for example, more than half of all school libraries have closed during the last 10 years. In that State, a young person in a correctional institution has better access to library facilities than does the average student. In those school libraries which remain in operation, collections are hopelessly outdated. The average publication date of a school library book is the late

1960's. Our school library collections are so obsolete that over half of the books on space exploration were written even before *Apollo XI*. An example of this can be found in one of my home State's more affluent school districts where 60 percent of all the high school's science books—particularly those about space exploration—are significantly older than the students using them. As an Illinois librarian said to me, "This means that a student wanting to do research, or even wanting to read about our Nation's advanced space program, will read about how some day we could put man on the Moon."

Mr. President, in this rapidly changing world, access to current, comprehensive information is essential to an effective educational system. If we are to prepare our Nation's children for the challenges of the future, every school in the United States must be equipped with the best and most up-to-date library resources available. The legislation I am introducing today would provide the necessary funding and direction to develop first-rate library facilities in our Nation's schools.

The Elementary and Secondary School Library Media Act would do two things. First, the act would establish the Elementary and Secondary Library Media Services Division, a new Division within the Department of Education's Office of Education, Research and Improvement. The Library Media Services Division would provide information and leadership to schools and library personnel nationwide. Second, the act would create three new grant programs. One program would award grants directly to the States for the acquisition of library resources. The other two programs would provide competitive grants, awarded to schools proposing innovative instructional programs and expanded uses of technology.

The American Library Association [ALA] has been very active in trying to restore support for elementary and secondary school libraries. The ALA has published a factsheet on school library media programs. I ask unanimous consent to have the ALA's factsheet included in the RECORD after my remarks.

Mr. President, I urge my colleagues to review this important legislation. I also encourage them to talk to their local school librarians and students. I look forward to working with them during the coming year in acting on this legislation.

I ask unanimous consent that the text of the bill follow my statement.

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

S. 266

*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 "Elementary and Secondary School Library Media Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in order to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy, every elementary and secondary school in the United States should be equipped with the best and most up-to-date library resources, certified library media specialists, access to advanced technology, and instruction on the use of library and information resources;

(2) our Nation's elementary and secondary school libraries are primarily dependent on a core of deteriorating and out-of-date library materials purchased with original funding from the Elementary and Secondary Education Act of 1965;

(3) school library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools since 1979; and

(4) small and rural school libraries are further disadvantaged because of small budgets based on low student enrollments, and limited access to resources, services, and personnel.

(b) STATEMENT OF PURPOSE.—It is the purpose of this Act to—

(1) establish within the Department of Education Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide;

(2) provide continued funding for elementary and secondary school library media program improvement, equity, innovation, and technological advancement;

(3) establish a partnership program for elementary and secondary school teachers and school library media specialists to jointly design resource and curriculum-based instructional activities that provide opportunities for students to access a broad diversity of resources and information, and other languages and cultures, including materials that will encourage understanding; and

(4) establish a partnership program for encouraging uses of technology and the sharing of information and access to resources by elementary and secondary school students, school library media specialists, and teachers.

#### SEC. 3. ESTABLISHMENT AND FUNCTIONS OF THE DIVISION OF ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES.

(a) DIVISION ESTABLISHED.—Section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended—

(1) by inserting "(a) OFFICE.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DIVISION.—There is established within the Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services, to be administered by a Director of such Division."

(b) FUNCTIONS OF THE DIVISION.—Part A of title IV of the General Education Provisions Act (20 U.S.C. 1221c) is amended by inserting after section 405 the following new section:

#### "SEC. 405A. DIVISION OF LIBRARY MEDIA SERVICES.

"(a) FUNCTIONS.—The Division of Elementary and Secondary School Library Media Services established in section 209(b) of the

Department of Education Organization Act shall—

"(1) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators in order to encourage improvement of educational programs, train library personnel, use advanced technology, and develop library resources, including resources that will encourage students to acquire skills in other languages; and

"(2) monitor and administer—

"(A) the grant programs for elementary and secondary school library media center resource development;

"(B) elementary and secondary school library media specialist and teacher partnership grants for innovative education; and

"(C) grants for uses of technology in the classroom that are linked to the library media center.

"(b) ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA PROGRAM.—

"(1) ESTABLISHMENT OF THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCE DEVELOPMENT PROGRAM.—The Director shall award grants from allocations under paragraph (2) to States for the acquisition of school library media resources for the use of students, library media specialists, and teachers in public elementary and secondary schools.

"(2) ALLOCATION TO STATES.—From the amount appropriated pursuant to the authority of paragraph (5) in each fiscal year, the Director shall allocate to each State having an approved plan under paragraph (3) an amount which bears the same relationship to such funds as the amount such State received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 in such year bears to the amount all States received under such chapter in such year.

"(3) STATE PLANS.—In order for a State to receive an allocation of funds under paragraph (2) for any fiscal year such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(A) designate the State educational agency as the State agency responsible for the administration and supervision of the program described in this section;

"(B) set forth a program under which funds paid to the State from its allocation under paragraph (2) will be expended solely for—

"(i) acquisition of school library media resources, including foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(ii) administration of the State plan, including development and revision of standards relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 5 percent of the amount allocated to such State under paragraph (2) for such fiscal year; and

"(C) set forth the criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"(4) DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—

"(A) DISTRIBUTION RULE.—From the funds allocated to a State under paragraph (2) in each fiscal year, such State shall distribute not less than 95 percent of such funds in such year to local educational agencies within

such State according to the relative enrollment of students in public elementary and secondary schools within the school districts of such State, adjusted to provide higher per-pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students—

“(i) living in areas with high concentrations of low-income families;

“(ii) from low-income families; and

“(iii) living in sparsely populated areas.

“(B) CALCULATION OF ENROLLMENT.—The calculation of relative enrollments under subparagraph (A) shall be made on the basis of the total number of students enrolled in public schools in the State.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$200,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

“(c) ESTABLISHMENT OF THE SCHOOL LIBRARY MEDIA SPECIALIST AND TEACHER PARTNERSHIPS FOR INSTRUCTIONAL INNOVATION PROGRAM.—

“(1) PROGRAM ESTABLISHED.—The Director shall award grants for projects that—

“(A) encourage collaboration between public elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable elementary and secondary school students to use a variety of information resources; and

“(B) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$20,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

“(d) ESTABLISHMENT OF THE USES OF TECHNOLOGY IN THE CLASSROOM PROGRAM.—

“(1) PROGRAM ESTABLISHED.—

“(A) IN GENERAL.—The Director shall award grants to encourage collaborative elementary and secondary school library media specialist and teacher programs designed to—

“(i) expand the use of computers and computer networks in the curriculum; and

“(ii) enable elementary and secondary school library media centers to access information from computerized databases.

“(B) COOPERATIVE AGREEMENTS.—The Director may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out this section.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$40,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

“(e) CONSTRUCTION.—Nothing in this section shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and materials.

“(f) SUPPLEMENTATION.—Funds provided under this section shall be used so as to supplement and not supplant other Federal, State, or local funds available to carry out the activities and services assisted under this section.

“(g) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘Director’ means the Director of the Division of Elementary and Secondary School Library Media Services established pursuant to section 209(b) of the Department of Education Organization Act;

“(2) the term ‘elementary school’ has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

“(3) the term ‘local educational agency’ has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

“(4) the term ‘secondary school’ has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

“(5) the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and

“(6) the term ‘State educational agency’ has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.”

AASL FACT SHEET—SCHOOL LIBRARY MEDIA PROGRAMS

BACKGROUND INFORMATION

Most U.S. Schools have been built from 1948-1985.

A vast majority of the approximately 51,000,000 students in public schools come from urban environments. New York City alone has nearly 1,000,000 students.

51 million students attend public schools and 8 million attend private schools.

The average age of most books is in the late 1960's when large amounts of federal, state and local funds were expended on school libraries.

Most schools are wired for television, but not for computer networks.

Most micro-computers in schools are older and only used for student instructional purposes or administrative purposes, but not both.

GENERAL EDUCATION STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Enrollment (K-12), 51,041,000—Public, 8,298,000—Private.

Teachers (K-12) 2,890,000—Public 598,000—Private.

Volunteers (K-12) 38,042,000.

Principals (K-12) 77,890—Public, 25,401—Private.

Largest school districts (K-12):

1. New York City	930,440
2. Los Angeles Unified	609,746
3. Chicago City	408,442
4. Dade County (FL)	279,420
5. Philadelphia City	189,451
6. Houston City	185,566
7. Detroit City	175,436
8. Hawaii	169,493
9. Broward County (FL)	148,803
10. Fairfax County (VA)	126,790
11. Dallas City	125,897
12. Hillsborough County (FL)	119,811
13. San Diego City	119,314
14. Clark County (NV)	111,460
15. Baltimore City	107,782
16. Prince Georges County (MD)	106,974
17. Duval County (FL)	106,593
18. Memphis City	104,410
19. Montgomery County (MD)	100,261
20. Palm Beach County (FL)	98,705

Total ..... 4,324,794  
 Note.—Nearly 10 percent of the U.S. students.

LEARNING RESOURCES AND TECHNOLOGY STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Access to information has been widely cited as the key to success in a growing number of endeavors. Thus, how information in made available and to whom become matters of concern.

In fall 1985, almost 94 percent of all public schools and 75 percent of all private schools had libraries or media centers.

During the 1984-85 school year, public school libraries held an average of 7,668 book titles, 34 periodical subscriptions, 353 audio materials, and 540 films and filmstrips.

The number of public schools using micro-computers has risen rapidly in recent years. Between fall 1981 and fall 1986, the proportion of public schools with computers rose 18 percent to 96 percent.

About 36 percent of all American workers used computers on their jobs in October 1989. The percentages ranged from 7 percent for workers who did not complete high school to 58 percent for those with 4 or more years of college. Women who have not completed college were more likely to use computers than men who have not completed college. For men and women who have completed 4 years of college, the percentage using computers were about the same. Computer users with higher levels of education were more likely to use their computers for more diverse applications than those with lower levels of education.

The total computer usage rate of students at school increased from 27.3 percent in October 1984 to 42.7 percent in October 1989. The rate at the pre-kindergarten and kindergarten level increase more than twofold. The rate at the first-through eighth-grade level increase by about two-thirds.

More than half (52 percent) of all elementary school children used computers at school in October 1989. The computer usage rate was 39 percent for students in high school and college. Sizeable percentages of students used them for schoolwork. About 18 percent of elementary school children used computers at home and about 6 percent used them for schoolwork. Students at the high school and undergraduate level were about twice as likely as the elementary school children to use home computers for schoolwork. In general, students in higher income families were more likely to use computers at home and use them for schoolwork than were students from lower income families.

ESEA CHAPTER II BACKGROUND

Because of the merger of programs in Chapter 2 of ESEA, there is now competition for resources among educational programs which should be partners. During the 1960's, Title II of ESEA provided the impetus for establishing libraries in most elementary schools and strengthening secondary school libraries. By the early 70's, many states even had full-time professional librarians managing most of their elementary and secondary libraries. Statistical evaluation indicated that the disparity of library materials and A-V equipment between schools was narrowing. With the advent of ESEA Chapter 2 during the late 70's and 80's, the disparity in library media collections and equipment between schools widened to a near chasm.

DISPARITY OF COLLECTIONS

A good example is: Broward County Schools (Ft. Lauderdale, Florida), where their local paper reported library spending ranging from \$1.59 per student in one elementary school to \$57.00 per student in another. Middle school and high school disparities are

similar. These same reports are echoed nationwide.

EFFECTS ON STUDENT PERFORMANCES AND ACHIEVEMENT

Analyses of schools that have been successful in promoting independent reading suggest that one of the keys is ready access to books. However, fully 15% of the nation's schools do not have libraries. In most of the remaining schools, the collections are small, averaging just over 13 volumes per student.—“Becoming a Nation of Readers,” 1985.

Schools should maintain well-stocked and managed libraries. Access to interesting and informative books is one of the keys to a successful reading program. As important as an adequate collection of books is a librarian who encourages wide reading and helps match books to children.—“Becoming a Nation of Readers.”

SchoolMatch (800-992-5323), in Westerville, Ohio, will send you information on school districts in the area to which you're moving. You fill out a questionnaire listing your priorities and SchoolMatch searches its data base for 15 school systems that come closest to meeting your needs (there are separate questionnaires for private schools). The service, which costs \$97.50, sometimes yields surprising results, says company president William Bainbridge, a former superintendent schools [sic]. For instance, SchoolMatch research indicates that the most important measures of a school district's success are not its tax base or property values but the education level of parents and the amount of money spent on library and media service.—“Changing Times,” August 1990.

SchoolMatch, a company in Ohio which is in the business of providing budget information to school districts, so they can determine where priorities should be placed on spending, or how they compare with other similar or competitive school districts, released the following findings.

Comparative financial information for 15,892 public school systems in the U.S.; 14,856 private schools in the U.S.; and accredited American Schools throughout the world.

Multiple regression and discriminate function analysis was used to analyze the various spending categories in all school system budgets.

There is a stronger correlation between library and media expenditures and student achievement and student performance on scholarship exams than any other expenditure in the school. Of all expenditures that influence a school's effectiveness—including those for facilities, teachers, guidance services, and others—the level of expenditures for library and media services has the highest correlation with student achievement and performance on scholarship exams. The correlation is beyond the traditionally held view that school systems with bright students and parents will spend more money for libraries and media.

In a personal interview, Dr. William L. Bainbridge, the head of the company and a former school superintendent from a conservative state, related that:

“A school System can get 'more bang for the buck' by putting a priority on expenditure for the library media program”. He further stated that:

I was personally surprised by the result and would not have believed the findings until I double checked the calculations.—“SchoolMatch Report,” 1987.

A small amount of Chapter 2 funding can make a significant difference in increasing student achievement and success.

Chapter 2 funding improves student's opportunities for learning.

The Chapter 2 program acts as a catalyst for school improvements and creative risk taking.

School districts praise chapter 2 for enabling local schools to have control to meet local educational needs—“Indiana Chapter 2 Evaluation Report” by Dr. Teresa L. Jump, independent educational consultant, 1992.

Access to the library media collection is the single best school predictor of student achievement.

The instructional role of the library media specialist affects the library media collection and, in turn, student achievement.

The degree of collaboration between library media specialist and teachers is affected by the ratio of teachers to pupils.—Colorado Study of 221 public schools, 1992.

Library media expenditures affect access to the library media program and, in turn, student achievement.—Colorado Study of 221 public schools, 1992.

COSTS FOR LIBRARY MEDIA RESOURCES

We need a basic expenditure of at least \$20.00 per student, with the federal government sharing 50%, state 25%, and local 25%. Most of our school districts in the U.S. are strapped to the point that 90% of their budgets go for salaries and building operations (heat, cooling, lights, etc.). At \$10.00 per student, we are talking about \$400,000,000 plus for public schools and \$20,000,000 for private schools. In other words, the total Chapter 2 allocation or a new chapter (In 1986-87, \$2.00 per student was allocated for Title II).

The Florida Department of Education analyzed the cost factors for purchasing state rights to copy video programs versus individual school districts:

Sample Video Series	A	B	C
Three year State income .....	\$20,904	\$9,373	\$8,614
Lease by 6.7 school districts .....	174,814	128,520	122,094
Individual copy with no rights .....	844	1,495	444
67 school districts with no rights .....	56,601	100,165	29,748

Thus, it would be very cost effective to arrange state leases with copy privileges and let individual districts copy for their own use, those videos they want.—Florida Department of Education, 1991.

Nearly half of the notification books on the shelves of most Indiana school libraries are over twenty years old, out-of-date and have misleading information.—“Indiana Legislative Report” by Daniel Callison, 1990.

In the area of space exploration, over half of the books on the shelves were written prior to the United States landing a man on the moon.

In the area of civil rights, most of the materials on the shelves were written during the dramatic changes initiated in the 1960's and few reflect the progress in human rights for minorities, the handicapped, and women over the past decade.

In the areas of geography and travel, most of the books on the shelves present a world as it existed twenty to forty years ago showing out-of-date maps and out-of-date political relationships.

In the area of biological science, few books on the shelves of our school libraries discuss the dramatic advances in discoveries related to modern knowledge of genetic structures.

In the area of career education, most of the materials available to our children through school libraries describe career opportunities as they existed over two decades ago. For example, women are often not included as part of the professional arena beyond the careers of teaching and nursing.—Report by Roger Whayle, Director of Media Services at New Albany-Floyd County Consolidated Schools

and Lauralee Forester, Coordinator of Media Services for the Lafayette School Corporation.

School library media center expenditures, when adjusted for inflation, have declined 16 percent in the public schools and 14 percent in private schools since 1978-79.

The median per-pupil expenditure by school libraries in 1989-90 was \$5.48—less than half the average cost of a children's book.

The average price of a hardcover book more than doubled from \$19 to \$40 between 1977 and 1990.

The average price of U.S. periodicals increased about 400 percent over the same period.—“ALA Fact Sheet,” by ALA Public Information Office, 1991.

EXAMPLE OF A MODEL LIBRARY MEDIA FACILITY AND RESOURCES

Bonifay High School (500 students) (30 teachers), opened a new building in February 1992. Each classroom has a color monitor computer and a television monitor, connected to the library media center using a local area network (LAN). There are 8 VHS video recorders connected to each classroom, so on any given day, teachers and students can have access to 8 programs directly from the library media center. There will be other recorders on carts, which can be loaned to classrooms, when needed. The card catalog also is available on-line. This school dates back to the 1920's, so they have discarded most of their collection and have purchased 2,500 new books. Teachers can request a videotape using their school-wide intercom/telephone system and can access the school's on-line library media catalog through their classroom computer network.

A complete television studio is operational, producing a weekly news show and specials. Four students are assigned each period, so 28 students are enrolled in the television production course. Eventually, 4 video laserdisk players and 4 (25") video monitors will be placed on carts, so they can be connected to the classroom computers for interactive video activities. Teachers at that right teaching moment can type into their computer, isosceles triangle, mule deer, etc. and the proper illustration, action segment or picture instantly becomes available.

In June 1992, three interactive CD-ROM's were added to the LAN. An electronic encyclopedia, almanac and SIRS can be accessed simultaneously by up to 40 terminals.

Approximate investment:

36 Television Monitors \$400 .....	\$14,400
45 Color Monitor Micros \$2,500 .....	112,500
8 VHS Video Recorders \$400 .....	3,200
3 CD-ROM Players \$800 .....	2,400
8-Channel video System, Computer system, CD-ROM System, wiring and outlets in classrooms .....	46,000
2,500 Books \$20 .....	50,000

Total ..... 228,500

Note.—An expenditure of \$457 per student.●

● Mr. SARBANES. Mr. President, I am very pleased to join again with Senator SIMON in introducing the Elementary and Secondary School Library Media Services Act, to establish within the Department of Education a division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide. As you know, I joined my colleague from Illinois in introducing this

proposal at the end of the 102d Congress in an effort to draw attention to the critical need to ensure that school libraries are able to bring their collections up to date and to stimulate related discussions prior to the 103d Congress.

It is imperative that when we consider the future of our Nation, the need to compete in an international economy, and the importance of moving our country forward, we remember the importance of educating our future work force. In so doing, we must pay close attention to the information center of the classroom—the library, or school library media center, as it is often called today. While my memories, and those of many of my colleagues, may revolve around a favorite book, young people of today may have, in addition to books, videotapes, recordings, computer software, CD-ROM's, magazines, newspapers, government documents, and films. The legislation we are reintroducing today is designed to ensure that this variety of information is available in an equitable manner in school library media centers across the Nation.

Prior to the merger of many education programs into block grants, as put forward by the Reagan/Bush administration in the 1980's, a separate categorical program, title II of the Elementary and Secondary Education Act, existed for school libraries. Because of this program, many school libraries were able to build up core collections, many of which are still in use today. In fact, many libraries have been unable to make any significant changes in their collections since the merger of programs into block grants. A few preliminary surveys have established that in some States the ages of book collections date back as far as 1965, with one junior-senior high school reporting that 55 percent of its school library collection was printed before the school's senior class was born.

Mr. President, the need to ensure that school libraries are able to bring their collections up to date has been highlighted dramatically by our rapidly changing world. A good example of this change is the implosion of the former Soviet Union which rendered obsolete a vast array of world atlases, almanacs, encyclopedias, maps, and history books. Our young people are our Nation's greatest resource, and it is clear that serious and immediate attention is needed to ensure that school library media centers are able to provide our students with accurate and timely resource materials. I urge all of my colleagues to join us in ensuring prompt enactment of this legislation and related efforts to address the critical needs of our school library media centers.●

By Mr. D'AMATO (for himself,  
Mr. MOYNIHAN, Mr. SARBANES,  
Mr. BUMPERS, and Mr. PELL):

S.J. Res. 30. A joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

● Mr. D'AMATO. Mr. President, I rise today along with my colleague Senator MOYNIHAN, to introduce a resolution designating April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week."

American culture comprises many ethnic groups. Each has contributed to the American way of life in its own way, through language, art, music, religion, and in many other fields. More specifically, the vast influx of Jews from Europe and the Arab world brought the rich heritage of the Jewish people to America. From its contribution in the fields of art, literature, medicine, law, finance, education, and in other varied areas, Jewish culture has enriched American culture.

By celebrating Jewish Heritage Week, we honor not only the contribution of American Jews, but the sacred holidays of Judaism, the memory of the tragedies that have befallen the Jews of Europe during the Holocaust and the history of Judaism itself—a history in which America has played such a great part.

I am pleased to join with my friend Senator MOYNIHAN in introducing this resolution. I urge my colleagues to join us in this effort to honor the rich and varied heritage of the Jewish people.

I ask unanimous consent that the text of the joint resolution be printed in the CONGRESSIONAL RECORD.

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

S.J. RES. 30

Whereas April 26, 1993, and April 14, 1994 mark the forty-fifth and forty-sixth anniversaries of the founding of the State of Israel;

Whereas the months of April and May contain events of major significance in the Jewish calendar, including Passover, in 1993, the fiftieth anniversary of the Warsaw Ghetto Uprising and the opening of the Holocaust Memorial Museum in Washington, DC., Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all ethnic groups in the Nation contributes to the unity of this Nation and,

Whereas understanding among ethnic groups in this Nation may be advanced further through and appreciation of the culture, history, and traditions of the Jewish community and the contributions of the Jewish people to this Nation: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, are designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such a week with appropriate ceremonies, activities, and programs.●

By Mr. HEFLIN.

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government; to the Committee on the Judiciary.

BALANCED BUDGET AMENDMENT

Mr. HEFLIN. Mr. President, I rise today to introduce legislation requiring the Federal Government to achieve and maintain a balanced budget.

Since I first came to the Senate in 1979, every Congress I have introduced legislation proposing a constitutional amendment to balance the Federal budget, and I have dedicated myself to many years of work with my colleagues to adopt a resolution which would authorize the submission to the States for ratification of a constitutional amendment to require a balanced budget.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our unwritten constitution. For our first 100 years, this country carried a surplus budget, but in recent years this Nation's spending has gone out of control. Indeed, the fiscal irresponsibility demonstrated over the years has convinced me that constitutional discipline is the only way we can achieve the goal of reducing deficits.

As you know, in 1982, the Senate did pass, by more than the required two-thirds vote, a constitutional amendment calling for a balanced budget. There were 69 votes in favor of it at that time. It was sent to the House of Representatives, where, in the House Judiciary Committee it was bottled up. The chairman would not allow it to come up for a committee vote, in order that it might be reported to the floor of the House of Representatives.

In order to bring the measure up for a vote in the House of Representatives, it was necessary to file a discharge petition. This is a petition that has to be signed by more than a majority of the whole number of the House of Representatives, and then it is brought up and voted on without amendment. The Senate-passed amendment failed to obtain the necessary two-thirds vote that was required in the House of Representatives at that time.

In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by 1 vote—but got 66 votes. During the 101st Congress, I supported a measure which passed the Judiciary Committee, but it was never considered by the full Senate. In the 102d Congress, the Judiciary Committee favorably reported a bill, but the amendment failed to pass the House of Representatives by the necessary two-thirds vote and was therefore dead in the 102d Congress.

All the while, there has been considerable debate, various articles have been written in numerous publications, and editorials have appeared in countless newspapers. Many speeches have

been made on the floor of the Senate, and I have made numerous speeches advocating the adoption of a constitutional amendment requiring a balanced budget.

Mr. President, I hope the time has come to finally adopt this long-overdue amendment and begin to move toward our goal of a balanced Federal budget.

Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. A 60-percent vote in the Senate is a very difficult one to obtain. This requirement should establish the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money, it should have the money on hand to pay its bills.

Section 2 of the amendment requires a three-fifths vote by both Houses of Congress to raise the national debt. In addition to the three-fifths vote, Congress must provide by law for an increase in public debt. As I understand it, this means presentment to the President, where the President has the right to veto or sign. If the President chose to veto the bill, it would be returned to Congress for action to possibly override the veto. It is also important to note that section 1, regarding the specific excess of outlays over receipts, contains this same requirement that Congress act by law.

Section 2 is important because it functions as an enforcement mechanism for the balanced budget amendment. While section 1 states outright that "total outlays \* \* \* shall not exceed total receipts" without the three-fifths authorization by Congress, the judicial branch would lack the ability to order the legislative and executive branches to meet this obligation. Therefore, section 2 will require a three-fifths vote to increase the national debt. This provision will increase the pressure to comply with the directive of this proposed constitutional amendment.

Other than just being directory, the amendment, by way of section 2, has some teeth and that is what is so important if we are going to do away with deficit spending and operate so that we do not spend any more money than the amount coming into the Government. That is what we are trying to achieve here.

Section 3 provides for the submission by the President of a balanced budget to Congress. This section reflects the belief that sound fiscal planning should be a shared governmental responsibility by the President as well as the Congress.

Section 4 of the amendment requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 5 of the amendment permits a waiver of the provisions for any fiscal year in which a declaration of war is in effect. This section also contains a provision long-supported by myself—that of allowing a waiver in cases of less than an outright declaration of war—where the United States is engaged in military conflict which causes an imminent and serious threat to national security, and is so declared by a joint resolution, which becomes law. Under this scenario, a majority of the whole number of each House of Congress may waive the requirements of a balanced budget amendment.

I firmly believe that Congress should have the option to waive the requirement for a balanced budget in cases of less than an outright declaration of war. Looking back over the history of our Nation, we find that we have had only five declared wars: The War of 1812, the Mexican War, the Spanish-American War, the First World War, and the Second World War.

The most recent encounters of the United States in armed conflict with enemies have been, of course, undeclared wars. We fought the Gulf War without a declaration of war. In addition, we fought both the Vietnam and Korean actions without declarations of war.

This country can be faced with military emergencies which threaten our national security without a formal declaration of war being in effect. Circumstances may arise in which Congress may need to spend significant amounts of national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

The United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Section 6 of the amendment permits Congress to rely on estimates of outlays and receipts in the implementation and enforcement of the amendment by appropriate legislation.

Section 7 of the amendment provides that total receipts shall include all receipts of the United States except those derived from borrowing. In addition, total outlays shall include all outlays of the United States except those for repayment of debt principal. This section is intended to better define the relevant amounts that must be balanced.

Mr. President, the future of our Nation's economy is not a partisan issue. Furthermore, the problem of deficit spending cannot be blamed on one branch of Government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national Government. Thank you.

Mr. President, I ask unanimous consent that the joint resolution on the line-item veto be printed in the CONGRESSIONAL RECORD.

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

S. J. RES. 31

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:*

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2000 or with the second fiscal year beginning after its ratification, whichever is later."

Mr. HEFLIN. Mr. President, I rise today to express my strong support for

the Hollings legislative line-item veto. I am an original cosponsor of S. 92, The Legislative Line-Item Veto Separate Enrollment Authority Act, sponsored by Senator HOLLINGS. In my judgment, the line-item veto, if enacted into law, would provide the President with an effective weapon to fight wasteful spending. It will help to shift the budget and appropriations process, which is currently biased structurally toward deficit spending, back toward a balance between taxpayers' costs and taxpayers' benefits so that we can restore fiscal responsibility to the Federal budget.

The largest obstacle that we face as a nation to sustainable, long-term economic growth is our huge Federal debt. The public debt now stands at \$3 trillion; it has quadrupled just since 1981. To measure the Federal debt in a meaningful way, we have to take into account economic growth over the years as well as inflation. Therefore, it is necessary to compare the size of the Federal debt to the size of the economy which carries it. The public debt as a percentage of GDP is now at 51 percent, the highest ratio of debt to GDP in nearly 40 years.

To put this in historical perspective, the gross Federal debt as a percentage of GDP reached a peak in 1946 because of debt incurred to finance our efforts in World War II. Since 1946, the size of the debt relative to GDP declined steadily over the years, due to economic growth, even during the Vietnam war and the Great Society years, to a low in fiscal year 1981. This downward trend in the relative size of the Federal debt reversed itself in 1981 and has headed upward ever since. Over the past 12 years, the Federal debt has doubled relative to the economy, despite the economic growth of the 1980's.

In 1992, we paid \$200 billion in interest to serve this debt. Interest on the Federal debt is now the third largest item on the budget and consumes 3.4 percent of our GDP. Because of this enormous debt burden, we are now paying more out of each year's Federal budget in interest to finance past Government borrowing than we are investing in future economic growth through public investment in infrastructure, human capital, and research and development.

The longer we fail to address our twin budget and investment deficits, the more the economy will suffer as a result. These two deficits are related and feed on each other. The larger our budget deficits, the less resources we have available for investment. Lower levels of investment, in turn, lead to lower levels of productivity and economic growth, and this results in further increases in budget deficits due to lower Government revenues and higher expenditures. To quote the General Accounting Office: "Federal budget deficits have absorbed increasing proportions of national saving that would

otherwise have been available to finance investment, either public or private." Investment is the primary engine that drives growth in productivity and living standards.

This enormous Federal debt that burdens our economy is, of course, the legacy of years of excessive deficit spending. The deficit spending of the last 12 years alone accounts for three-fourths of our current national debt. For example, President Bush's fiscal year 1993 budget required a \$464 billion increase in the gross Federal debt. A debt increase of this amount is in 1 year larger than the total combined debt increases of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford. President Bush's 1-year debt increase is nearly twice as much as President Carter's 4-year debt increase.

The Congressional Budget Office expects this year's deficit to reach \$310 billion, setting a new record for the fourth year in a row for that part of the deficit which increases our public debt, which is different from the gross deficit which contributes to the gross Federal debt, which is even larger. Two-thirds of this year's deficit will go toward interest on the national debt to finance past deficit spending. In addition, because of weak economic growth, the yearly deficits are expected to hover around \$300 billion through mid-decade and then grow even larger, reaching \$357 billion in 1998 under current policies.

A continuation of this reckless and irresponsible pattern of deficit spending is clearly unacceptable. This kind of budgetary policy is endangering the possibility that our children and grandchildren will enjoy a decent standard of living. Unless we change our ways, our descendants will judge us as the most shortsighted and irresponsible generation in American history.

The first bill I introduced in the U.S. Senate, and the first bill I have introduced in each subsequent Congress, is a constitutional amendment mandating a balanced budget. In my judgment, this legislation is necessary in order to get our economic and budgetary houses in order.

In addition, I support the line-item veto as another necessary weapon in the taxpayers' arsenal in the battle against the enemy of deficit spending. Insofar as our economic strength is as important to our national security as is our military strength, our taxpayers' arsenal is as important to maintain as our military arsenal.

Constitutions in 43 States provide for a line-item veto whereby the Governors have the ability to eliminate individual provisions or reduce amounts in legislation presented for their signature. The line-item veto has a proven track record on the State level at discouraging and preventing unnecessary and wasteful spending. Because it has been a proven, effective tool against

excessive spending on the State level, it would be an effective tool on the national level as well.

In a study released just last month by the CATO Institute, a Washington-based think tank, 188 Governors and former Governors, including Presidents Carter, Reagan, Clinton, and 1988 Democratic Presidential nominee Michael Dukakis were surveyed with regard to the line-item veto. Nearly 70 percent of those who responded said that, as Governors, they had found the line-item veto useful; 92 percent of the past and present Governors surveyed support a Presidential line-item veto in order to restrain Federal spending.

If implemented on the Federal level, the President could effectively cut wasteful programs and expenditures from appropriations bills. This would have the effect of cutting Government spending, thus reducing budget deficits.

One year ago this month, the General Accounting Office of the U.S. Congress released a study entitled: "Line-Item Veto, Estimating Potential Savings" in which the agency evaluated the potential effectiveness of the line-item veto on the Federal level. The GAO report stated, and I quote at length:

If the President had had line-item veto authority from fiscal years 1984 through 1989 and used that authority to reduce or eliminate each item to which an objection was raised in the Statements of Administration Policy, we estimate that the savings would have ranged from \$7 billion to \$17 billion per year, for a cumulative 6-year total of about \$70 billion \* \* \*. This would have reduced Federal deficits and borrowing by 6.7 percent, from the \$1,059 billion that actually occurred during that period to \$989 billion \* \* \*. In addition, the reduced Federal borrowing associated with the program savings explicitly shown would have resulted in interest cost savings.

The line-item veto has bipartisan support in both Houses of Congress. In addition, Presidents Reagan, Bush, and now President Clinton, who know firsthand the effectiveness of the line-item veto on the State level, are advocates of the line-item veto at the Federal level. More importantly, according to Gallup surveys, large majorities spanning more than four decades have consistently favored the line-item veto. In the most current Gallup survey conducted in 1989, support for the line-item veto outnumbered opposition by almost a 3-to-1 ratio, 70 to 24 percent.

The bill which I have cosponsored is a particularly appealing one in that it would grant the President line-item veto authority while eliminating two stumbling blocks that have produced opposition to its enactment in the past. The first is that this bill would enact the line-item veto statutorily rather than constitutionally, by requiring that each line in every appropriations bill be enrolled as a separate bill. The President could then single out individual items to either sign or

veto. This separate enrollment mechanism eliminates the necessity of amending the Constitution.

In addition, the bill would allow the line-item veto to be in effect for a 2-year trial period. It has a sunset provision whereby an evaluation of its success would be required after a 2-year test. It would become a permanent statute only if it passed this 2-year trial period.

I urge my colleagues to vote for this bill. It is a clear opportunity to seriously address our biggest problem—excessive deficit spending—with a realistic, proven solution. The voters have spoken, it is time to end gridlock. Let's give the President the line-item veto.

By Mr. DODD:

S.J. Res. 32. A joint resolution calling for the United States to support efforts of the United Nations to conclude an international agreement to establish an international criminal court; to the Committee on Foreign Relations.

INTERNATIONAL CRIMINAL COURT ACT OF 1993

Mr. DODD. Mr. President, it is often said that of all the weapons we have in the fight against international crime, none is more effective than the rule of law. Today, I am introducing legislation that honors and fortifies that age-old principle. This resolution calls on the United States to support efforts at the United Nations to promote the establishment of an international criminal court.

Mr. President, on January 13, 1942, at the height of World War II, leaders from nine Allied nations met at St. James Palace in London. On that day, 51 years ago this month, they made a vow to the world: that the Nazis would one day stand trial for their unspeakable crimes. At the Nuremberg trials, as history has recorded, that solemn promise was faithfully kept.

Six weeks ago, at a conference in Geneva, Secretary of State Lawrence Eagleburger spoke of events in another time and another place. He vowed that those who practiced ethnic cleansing in the former Yugoslavia would be swiftly brought to justice, their crimes exposed for all the world to see. For them there would be, in his words, a "second Nuremberg." And so for the second time in recent years, Mr. President, the memory of the Nuremberg trials had been invoked.

But, Mr. President, there has been a hollow ring to these words. Two years ago, the world promised to try Saddam Hussein for war crimes and crimes against humanity. But no tribunal has been assembled, no indictment has been prepared. The promise of justice was only that—a promise.

Mr. President, the Nuremberg trials taught the world a remarkable lesson, a lesson in the sanctity of law and the enduring power of ideals. It was that brazen spirit of mutual cooperation that led to the formation of the United

Nations, devoted above all to the international rule of law.

But those who followed the events at Nuremberg knew that the moment was fleeting. They knew that without a vigilant commitment to the prosecution of international crimes, Nuremberg and all of its lessons would be quickly forgotten. And to this end they dared to dream of a global system of justice—the creation of a permanent international criminal court.

Today, Mr. President, the need for such a court is readily apparent. International criminals are making their mark across the globe, whether it be ethnic cleansing in Bosnia, drug trafficking in Colombia, or terrorism in the Middle East. And yet, almost 50 years after Nuremberg, the world still has no mechanism, no systemic approach, to deal with these crimes.

Mr. President, in this uncertain and rapidly changing world, it is said that we seek to build a new world order. We are casting out the assumptions of the cold war establishment and laying the foundations for a bold new era. And to guide us in this task we look to one set of principles: the sanctity of justice and the international rule of law.

Mr. President, there can be no doubt that an international criminal court would help to uphold these lofty ideals. But is also most certainly true that without the leadership of the United States, such a court will never come to pass. The purpose of the resolution I am introducing today is to call on the United States to provide that leadership at this critical moment in history.

Mr. President, since the dawn of civilization, man has acknowledged the existence of international obligations. As early as the fourth century B.C., the Chinese writer Sun Tzu wrote a treatise on the laws of war. The earlier Egyptians, Mr. President, entered into agreements that regulated warfare and the manner in which it would be initiated. The ancient Greeks and Romans had rules that governed the care of the wounded and the treatment of prisoners, even in that early time.

In the modern era, Mr. President, the basis for international law could be found in multilateral treaties. For example, the slave trade was outlawed by the Brussels Convention in 1890. Drug trafficking was addressed by the International Opium Convention in 1912. War crimes were defined by the Geneva Conventions in 1949. And the practice of ethnic cleansing was banned by the Genocide Convention in 1948.

In all, hundreds of multilateral treaties and conventions have shaped the rules of the international community. One scholar, Cherif Bassiouni of the DePaul University College of Law, has compiled 22 distinct categories of international crimes—covering everything from "war crimes" to "the taking of hostages," to "crimes against the environment."

Throughout history, Mr. President, man has also attempted to hold others accountable when the rules of international law have been broken. Unfortunately, it has proven easier to define the crime than to punish the criminal.

In 1474, Gov. Peter von Hagenbach was tried in Breisach, Germany, before a tribunal of 28 judges from the Holy Roman Empire. He was found guilty of murder, rape, perjury, and other crimes against the law of God and man, following his reign of terror over the citizens of Breisach. Scholars believe this was the first successful international tribunal.

In the aftermath of World War I, the victorious allies sought to try Kaiser Wilhelm II for crimes against the peace. But the Kaiser fled to the Netherlands, and the Allies soon lost interest in the case.

In 1920, the Allies signed a treaty with Turkey calling for the trial of those responsible for the Armenian massacre. But the treaty was never ratified.

Finally, Mr. President, after the horrors of World War II were revealed to the world, 22 leaders of the Nazi movement were brought to trial in the town of Nuremberg, Germany. All but 3 were convicted; 12 were sentenced to death, and the rest were given lengthy sentences.

But the Nuremberg trials were not just about retribution. They were also about healing. They helped an entire generation come to terms with an event that defied our every notion of the limits of humanity.

Mr. President, my experience with the Nuremberg trials is in some respects a personal one. My father served as Executive Trial Counsel for the American prosecution team at Nuremberg, working alongside Supreme Court Justice Robert Jackson.

I grew up in a home where the words Treblinka, Auschwitz, Buchenwald, and Bormann, and Mengele, and Eichmann, and Goering, and Goebbels were as common as any names that I ever heard night after night at the dining room table. My childhood friends knew nothing of the Holocaust. I knew of it from as long as I can remember.

Mr. President, the Nuremberg trials were not without their flaws. While the Nazis were the ones who stood on trial, and rightfully so, the Allies were shielded from potential war crimes of their own. The bombing of Dresden, the Soviet massacre in the Katyn Forest—all these went undiscussed, and unjudged. Years later a bitter German population would call it victor's vengeance.

But Nuremberg taught the world an important lesson: that an international tribunal could, in the end, render justice. In an effort to build on this remarkable accomplishment, the United Nations set out to create a permanent international criminal court.

The theory behind the court, as outlined four decades ago, was visionary and bold. Just as the International Court of Justice mediates disputes between nations, an international criminal court would judge the actions of individuals. It would sit at a neutral site with a panel of judges from around the world, its ultimate goal to dispense equal justice.

This early optimism, unfortunately, was short-lived. The cold war soon intervened, and by 1954 the work of the United Nations was set aside. For the next several decades, a dedicated assortment of legal scholars kept the issue alive. This included groups like the International Law Association, the American Bar Association, and a committee of international scholars led by Professor Bassiouni.

Finally, in 1989, acting on a request from Trinidad and Tobago, the General Assembly called on the U.N. International Law Commission to take up the matter once again. By 1991 the Commission had adopted a draft code of international crimes.

Then, last summer, the Commission made a formal determination: an international criminal court could indeed be done. It asked permission to take the next step—to begin work on the statute for the court itself.

Many nations agreed. But the United States, at first, did not. On October 27, State Department Legal Advisor Edwin Williamson appeared at the United Nations to argue in favor of further delay.

Fortunately, Mr. President, thanks to the urging of the European Community and others, the U.S. position was eventually softened. And on November 25, with the support of the American delegation, the General Assembly granted the Commission's request.

In the course of this debate, Mr. President, our position became clear. The United States would half heartedly support the United Nations effort. Leadership would be left to others.

Mr. President, there are many legitimate concerns about the concept of an international criminal court. Some observers are troubled by the constitutional implications of trying a U.S. citizen in an international forum. Others worry about the autonomy of the court, and the extent to which it would be shielded from political demands. Still others believe that to recognize the jurisdiction of such a court would be an unacceptable loss of national sovereignty.

These matters must be resolved and will be resolved. And we must do it with due diligence. But we cannot afford to waste valuable time. There is a sense of urgency today with the events in the former Yugoslavia, with the events in the Middle East, with the increasing threat of drug traffickers. There is a sense that there is a need for such a tribunal.

And to call on one merely to deal with the problems of Saddam Hussein

or to set up a very special court exclusively to deal with the events in the former Yugoslavia would be to miss an opportunity in falling to establish a permanent court. It is my unfortunate belief that the Milosevics and Saddam Husseins are going to be recurring events in the remainder of this century, and certainly in the next.

Mr. President, an international criminal court would have three important advantages.

First, an international criminal court would serve as an appropriate forum to try those suspected of major war crimes or crimes against humanity. Already the United States has taken the initial steps to try those responsible for war crimes in the Balkans. But the lack of an existing criminal structure has noticeably slowed our efforts.

Second, an international criminal court would provide a uniform mechanism to try individuals suspected of other international crimes, such as terrorism, drug trafficking, or money laundering.

For example, many nations are unable to try drug traffickers at home because of the threat of violence. At the same time they are unable to extradite because of domestic political pressures. An international tribunal would provide a third option.

Finally, an international criminal court would offer legal recourse for any nation that has adopted its charter. Mr. President, this is a critical point. We cannot push for the establishment of an international tribunal and pretend at the same time that we are exempt from its reach. Our support for an international criminal court would help assure the world community that the law among nations applies equally to all.

Mr. President, over the past few weeks, at confirmation hearings in the Foreign Relations Committee, I have raised this proposal with Secretary of State Warren Christopher and U.N. Ambassador Madeleine Albright. Their reactions left me highly encouraged.

In fact, according to a story in yesterday's New York Times, the State Department is preparing a study on how best to create a mechanism to pursue war crimes in the Balkans and elsewhere. It is my very strong hope that the Clinton administration will take the led on this issue in the weeks and months ahead.

Mr. President, there is nothing simple about the idea of an international criminal court. The length of time this proposal has been on the international agenda should be proof enough of that. Indeed, the debate over this issue is a reflection of the age-old struggle between the rights of individuals, the sovereignty of nations, and the relentless demands of the global community.

But as we shape a new agenda for this everchanging world, I believe we must

be guided above all else by the sanctity of law. And if we will not uphold the rule of law whenever and wherever it is under challenge, then our commitment to justice is hollow indeed.

Mr. President, in his closing remarks at the Nuremberg trials, Robert Jackson recited the long list of crimes the Nazis were accused of, and the evidence against them. He then pointed out the weighty responsibility that rested on the judges of the tribunal.

Their decision, he said, was not just a judgment on the guilt or innocence of the men involved. In truth, it was a judgment on the Holocaust itself.

Justice Jackson closed his argument with these words:

It is against this background that these defendants now ask this Tribunal to say that they are not guilty of planning, executing, or conspiring to commit this long list of crimes and wrongs. They stand before the record of this trial as blood-stained Gloucester stood by the body of his slain king. He begged of the widow, as they beg of you: "Say I slew them not." And the Queen replied, "Then say they were not slain. But dead they are \* \* \*."

If you were to say of these men that they are not guilty, it would be as true to say that there has been no war, there are no slain, there has been no crime.

Mr. President, I ask unanimous consent the text of the joint resolution be printed in the RECORD.

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

S. J. RES. 32

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) the freedom and security of the international community rests on the sanctity of the rule of law;

(2) the international community is increasingly threatened by unlawful acts such as war crimes, genocide, aggression, terrorism, drug trafficking, money laundering, and other crimes of an international character;

(3) the prosecution of individuals suspected of carrying out such acts is often impeded by political and legal obstacles such as disputes over extradition, differences in the structure and capabilities of national courts, and the lack of uniform guidelines under which to try such individuals;

(4) the war crimes trials held in the aftermath of World War II at Nuremberg, Germany, and Tokyo, Japan, demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum;

(5) since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character;

(6) United Nations General Assembly Resolution 44/39, adopted on December 4, 1989, called on the International Law Commission to study the feasibility of an international criminal court;

(7) in the years after passage of that resolution the International Law Commission has made great strides in establishing a framework for such a court, including—

(A) the adoption of a draft Code of Crimes Against the Peace and Security of Mankind;

(B) the creation of a Working Group on an International Criminal Jurisdiction and the formulation by that Working Group of several concrete proposals for the establishment and operation of an international criminal court; and

(C) the determination that an international criminal court along the lines of that suggested by the Working Group is feasible and that the logical next step would be to proceed with the formal drafting of a statute for such a court;

(8) United Nations General Assembly Resolution 47/33, adopted on November 25, 1992, called on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session; and

(9) given the developments of recent years, the time is propitious for the United States to lend its support to this effort.

## SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the establishment of an international criminal court with jurisdiction over crimes of an international character would greatly strengthen the international rule of law;

(2) such a court would thereby serve the interests of the United States and the world community; and

(3) the United States delegation should make every effort to advance this proposal at the United Nations.

## SEC. 3. REQUIRED REPORT.

Not later than October 1, 1993, the President shall submit to Congress a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

By Mr. BROWN:

S.J. Res. 34. Joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

### TERM LIMITS CONSTITUTIONAL AMENDMENT

• Mr. BROWN. Mr. President, today, I rise to offer joint resolution calling for the adoption of a constitutional amendment limiting congressional terms.

Before I describe the joint resolution I wish to first offer my observations about the term limit movement that has swept this country.

Almost every candidate running for office this year tried to tap into the anti-incumbent mood of the voters. Change literally became the watchword of both long-time incumbents and their challengers. In the first Presidential debate, the three candidates used the word "change" more than 34 times, as if repeating a word often enough makes it more than a word, perhaps even a reality.

But real change just may start this year, Mr. President, as the voters of 14 States passed ballot initiatives to put term limits on their elected officials. The wave that started 2 years ago in my home State of Colorado, and which moved on to Oklahoma and California, has grown to the point where November 3 may well be remembered as a national referendum on term limits.

This feat has been achieved by an enormous effort of tens of thousands of volunteers. Term limits are a direct assault on the ivory tower of incumbency. The people have had to take matters in their own hands and use the initiative process to put term limits on the ballot.

In the process, they gathered 3.4 million petition signatures, with term limits earning an average of 66 percent of the vote. In fact, 21 million citizens voted for term limits this past election, approving them by a margin of over 2 to 1.

But the political establishment hasn't rolled over and played dead in the face of this massive citizens' movement.

Term limits are a direct threat to the culture that rules Congress. Term limits strip away the means of making congressional service a lifetime occupation by ensuring competitive elections, wider electoral choice, and regular rotation in office.

Special interest groups, without a track record of campaign donations and favoritism built up over a long period, will lose their leverage over the policymaking process. Members of Congress who serve under term limits are less likely to be beholden to any one or group of interests than will long-term incumbents because they serve under a system that rewards ability rather than one that emphasizes incumbency.

Politics and partisanship will not disappear under term limits. And term limits won't change everything, but they will put a premium on results.

Term limits are born out of the deeply rooted political traditions of this Nation. The Framers of the Constitution believed that government was necessary to conduct the affairs of our people in an orderly and efficient manner. They held no illusions about the wisdom of government or of human nature.

They placed intricate checks and balances on the branches of government, ensuring that no one branch, nor the Government as a whole, should fall prey to tyranny. Limiting the power of government in favor of the citizens is the essence of the philosophy of the Founding Fathers.

Term limits will change the way most Members of Congress feel about their jobs. Instead of a lifetime position, it will be viewed as a limited period of public service. Term limits will not cure all of Congress' problems. But they are the first fundamental step of making Congress put the welfare and interests of the people above their own.

Now, let me turn to the joint resolution which I am offering today. Simply put, the joint resolution proposes an amendment to the Constitution, to be ratified by the States through conventions, which imposes a 12-year-term limit on Members of Congress. The amendment applies only to terms of of-

fice beginning on or after the date of ratification.

The amendment will not prevent States from passing additional restrictions and regulations, and will not invalidate more restrictive measures that passed by various State initiatives last year.

Finally, the amendment will be inoperative if it does not become ratified within 7 years from its submission to the States by Congress.

In my view, there are 10 reasons why this body should pass a constitutional amendment limiting congressional terms. They are as follows:

First, term limits will end careerism in Congress and encourage citizens from all walks of life to become candidates. This will bring wider expertise to Congress and will give Congress greater legitimacy.

Second, a Congress with term limits will be less beholden to special interests and the campaign funds they offer. Congress will include individuals who are not seeking reelection and who will return to private life. Their influence will broaden the perspective of Congress and discourage narrow parochialism.

Third, term limits will reduce incumbency advantages. Campaigns will become more competitive, and Congress will be more willing to legislate against excessive franking, staff growth, and unfair campaign practices.

Fourth, term limits will reduce corruption in Congress. Those in office for decades sometimes lose touch with normal ethical standards, surrounded as we all are by the pomp, privilege, and power of office.

Fifth, term limits will strengthen Congress by weakening the iron triangle of political power that the current seniority system conveys on staff, lobbyists, and the executive branch bureaucracy.

Sixth, term limits will reduce the current demands for nonstop campaigning, allowing us to concentrate on the job of legislating and deliberating.

Seventh, term limits will encourage more political participation by underrepresented groups—those in society who are less likely to be career politicians.

Eighth, term limits will discourage pork barrel politics. If we aren't driven by a career imperative, we are more apt to recognize national and long-term priorities, rather than short-term or local goals.

Ninth, with term limits, we can have less staff. As we become less driven by reelection, there will be a corresponding decline in make-work projects driven by excessive staff.

Tenth, finally, term limits will increase the stature of Congress. As we in Congress more closely reflect the careers and concerns of ordinary citizens, our deliberations and decisions are more likely to receive support.

Mr. President, in conclusion, the American people voted in favor of term limits at the grassroots level because they cannot get action from Congress. My legislation will offer Congress an opportunity to remove any doubts about the legality of State-passed term limits and pass a constitutional amendment Americans clearly support.●

By Mr. PRESSLER:

S.J. Res. 35. Joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

NATIONAL ALZHEIMER'S DISEASE MONTH

Mr. PRESSLER. Mr. President, today I have the privilege of introducing a joint resolution designating the month of November in 1993 and 1994 as "National Alzheimer's Disease Month." I had the honor of authoring similar legislation in the 102d Congress.

Alzheimer's disease is becoming more and more common. Four million Americans and nearly half of all nursing home residents suffer from Alzheimer's. Estimates indicate that, by the next century, approximately 14 million Americans will have Alzheimer's disease—unless we find a cure. This means that one in every three families may be affected by Alzheimer's disease.

Encouraging progress has been made in the fight against Alzheimer's disease. Funding for research has increased and more Americans are aware of this dreadful disease. Additional support groups are being formed to help family members of Alzheimer's victims. In fact, I recently was selected to serve on the board of directors for the Siouxland Chapter of the Alzheimer's Association. These are all positive steps. However, more work still must be done.

Providing long-term care of Alzheimer's victims costs our Nation an estimated \$90 billion every year. Unfortunately, public programs such as Medicare and private insurance do not provide adequate coverage for most of the afflicted individuals. Thousands in my State of South Dakota and across the country must cope with caring for a loved one who has Alzheimer's disease.

Our only hope is to find a treatment or cure through research. Fortunately, substantial increases in research funding have occurred in recent years. This growing commitment should help make significant progress, and eventually decrease the cost of treating this disease.

National Alzheimer's Disease Month is intended to foster national awareness of the extent to which Alzheimer's disease affects our society. Alzheimer's disease is a brain disorder that is not a normal part of the aging process. It affects more and more people in our society and costs billions of dollars.

Many of my colleagues joined me in sponsoring this resolution in previous years. I hope we find a cure soon and that similar legislation will not be needed in the future.

Mr. President, I ask unanimous consent that the text of the resolution appear in the RECORD following my remarks.

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

S.J. RES. 35

Whereas over 4 million United States citizens are affected by Alzheimer's disease, a surprisingly common degenerative disease which attacks the brain, impairs memory and thinking, alters behavior, and renders its victims incapable of self care;

Whereas it is estimated that by the middle of the 21st century, Alzheimer's disease will strike 14 million United States citizens, affecting 1 in every 3 families;

Whereas Alzheimer's disease is not a normal consequence of aging, but a disorder of the brain for which no cause has been determined and no treatment or cure has been found;

Whereas Alzheimer's disease is the quintessential long-term care problem, requiring constant full-time care for its victims, who can suffer from the disease for 3 to 20 years, at a total annual cost to the Nation of at least \$90 billion;

Whereas families of Alzheimer's patients bear the overwhelming physical, emotional, and financial burden of care, and neither public programs, including Medicare, nor private insurance provide protection for most of these families;

Whereas 80 percent of all Alzheimer's patients receive care in their own homes;

Whereas nearly half of all residents of nursing homes suffer from Alzheimer's disease or some other form of dementia; and

Whereas increased national awareness of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Association may stimulate increased commitment to long-term care services to support Alzheimer's patients and their families and a greater investment in research to discover methods to prevent the disease, delay its onset, and eventually to find a cure for the disease: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the months of November 1993, and November 1994, are each designated as "National Alzheimer's Disease Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such months with appropriate ceremonies and activities.

By Mr. HOLLINGS (for himself,  
Mr. SPECTER, Mrs. KASSEBAUM,  
Mr. SHELBY, Mr. DECONCINI, and  
Mr. DODD):

S.J. Res. 37. Joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

FEDERAL CAMPAIGNS CONSTITUTIONAL AMENDMENT

● Mr. HOLLINGS. Mr. President, in his inaugural speech yesterday, President Clinton issued a historic challenge to

Congress. He said, "Let us resolve to reform our politics, so that power and privilege no longer shuts down the voice of the people." To take up that challenge, the first order of business of the 103d Congress must be fundamental reform of our campaign finance laws.

Let us also resolve not to repeat the mistakes of past efforts at campaign finance reform, which bogged down in partisanship as Democrats and Republicans each tried to gore the others' sacred cows. Let us cut directly to the root of the problem with a simple, straightforward, nonpartisan solution: a constitutional amendment empowering Congress and the States to set simply limits on the amount of money spent in campaigns for public office.

As Prof. Gerald G. Ashdown has written in the *New England Law Review*, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches—to reform—since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles \* \* \* would be eliminated."

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As

Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking some \$2,400 for 30 seconds of primetime advertising. In New York City, you're talking more than \$30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flush with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

Buckley versus Valeo created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only \$50,000 to spend in a race and I have \$1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley versus Valeo. By striking down the limit on what a candidate can spend, Justice Marshall said,

It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was \$1.2 million in 1980, rising to \$2.1 million in 1984, and skyrocketing to \$3.1 million in 1986, \$3.7 million in 1988, and up, up, and away. To raise that kind of money, the average Senator must raise money at a rate of nearly \$12,000 a week, every week of his or her 6-year term. Overall spending in congressional races increased from \$403 million in 1990 to \$504

million in 1992—nearly a 20 percent increase in 2 years' time.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting the big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. They say, "Here he comes again. It must be election time." But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. I'm out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle. The rule was, if you had money, I had the time to meet with you.

After the election, I held a series of town meetings across the State. Friends asked, "Why are you doing these town meetings? You just got elected. You've got 6 years." To which I answered, "I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy raising bucks." I had a similar experience in 1992.

I remember Senator Richard Russell saying:

They give you a 6-year term in this U.S. Senate: two years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.

Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, \$700,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending

limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over any challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of electoral mortality in the upper Chamber. And as to the alleged invulnerability of incumbents in the House, I would simply note that more than 25 percent of the House membership was replaced in the 1992 election alone.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way:

While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—sufficient to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar coming in and every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and zero individual influence to band together with others of mutual interest knowing that their contribution is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the junior Senator from Kentucky's contention that we spend too little in our Federal

campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense, that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of vulgar, marketplace values run amok. Federal offices are not like cat food; they should not be up for sale.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. First, it would end the mindless pursuit of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that all five of the most recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since early 1970, and we haven't advanced the ball a single yard. It has been 20 years now, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to

govern the 1994 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

And, by the way, I reject the argument that—if we were to pass and ratify this amendment—Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974: we set reasonable, bipartisan limits, by law. We did it in 1974, and we can certainly do it again.

Mr. President, this joint resolution will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge passage of this joint resolution, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.●

#### ADDITIONAL COSPONSORS

S. 2

At the request of Mr. FORD, the names of the Senator from Nevada [Mr. REID], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Dakota [Mr. DORGAN], the Senator from Texas [Mr. KRUEGER], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 7

At the request of Mr. MCCONNELL, the names of the Senator from Utah [Mr. HATCH] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 17

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], and the Senator

from Maryland [Mr. SARBANES] were added as cosponsors of S. 17, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 27

At the request of Mr. SARBANES, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 36

At the request of Mr. BOREN, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Nevada [Mr. BRYAN], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 36, a bill to amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees.

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 56

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 56, a bill to redefine extortion for purposes of the Hobbs Act.

S. 71

At the request of Mr. METZENBAUM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 71, a bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation.

S. 92

At the request of Mr. HOLLINGS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 92, a bill to create a legislative line item veto by requiring separate enrollment of items in appropriations bills.

S. 171

At the request of Mr. GLENN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 173

At the request of Mr. DECONCINI, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 173, a bill to amend title II of the Social Security Act to provide for a more

gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes.

S. 175

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 175, a bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children (WIC) an entitlement program, and for other purposes.

S. 185

At the request of Mr. GLENN, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 187

At the request of Mr. BURNS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 187, a bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 222

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 222, a bill to require the Commissioner of Food and Drugs to collect information regarding the drug RU-486 and review the information to determine whether to approve RU-486 for marketing as a new drug, and for other purposes.

S. 241

At the request of Mr. PRYOR, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 241, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventive health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 242

At the request of Mr. PRYOR, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 242, a bill to amend title XVIII of the Social Security Act to require the Sec-

retary of Health and Human Services to consult with State medical societies in revising the geographic adjustments factors used to determine the amount of payment for physicians' services under part B of the Medicare program, to require the Secretary to base geographic-cost-of-practice indices under the program upon the most recent available data, and for other purposes.

SENATE JOINT RESOLUTION 9

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

SENATE JOINT RESOLUTION 20

At the request of Mr. BRYAN, the names of the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. DORGAN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arizona [Mr. DECONCINI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Tennessee [Mr. SASSER], the Senator from Alaska [Mr. STEVENS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Vermont [Mr. JEFFORDS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Colorado [Mr. BROWN], the Senator from California [Mrs. FEINSTEIN], the Senator from Louisiana [Mr. BREAUX], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 20, a joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 13, 1994, as "National Burn Awareness Week".

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Texas [Mr. KRUEGER], the Senator from California [Mrs. FEINSTEIN], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict

in the former Socialist Federal Republic of Yugoslavia.

SENATE CONCURRENT RESOLUTION 8—ORIGINAL CONCURRENT RESOLUTION REPORTED TO ALLOW MEMBERS TO SERVE ON THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. FORD, from the Committee on Rules and Administration, reported the following original concurrent resolution; which was considered and agreed to:

S. CON. RES. 8

*Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.*

SENATE RESOLUTION 40—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 40

*Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.*

*Sec. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed \$3,085,530, of which amount (1) not to exceed \$45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).*

*(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$3,152,524, of which amount (1) not to exceed \$45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to ex-*

ceed \$1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 41

*Resolved*, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed \$1,478,578, of which amount (1) not to exceed \$4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$3,500 may be expended for the training of the professional staff of such committee (under procedures specified by

section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$1,511,163, of which amount (1) not to exceed \$4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

#### SENATE RESOLUTION 42—ORIGINAL RESOLUTION REPORTED PROVIDING FOR MEMBERS ON JOINT COMMITTEES

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was considered and agreed to:

S. RES. 42

*Resolved*, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Mathews of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on the Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

#### SENATE CONCURRENT RESOLUTION 8—ORIGINAL CONCURRENT RESOLUTION REPORTED PROVIDING FOR ANOTHER MEMBER ON JOINT COMMITTEE

Mr. FORD, from the Committee on Rules and Administration, reported the following original concurrent resolution, which was considered and agreed to:

S. CON. RES. 8

*Resolved by the Senate (the House of Representatives concurring)*, That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

#### SENATE RESOLUTION 43—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DECONCINI, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 43

*Resolved*, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of Rule XXVI of the Standing Rules of the Senate, the Select Committee on Intelligence is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed \$2,938,578 of which amount (1) not to exceed \$30,000 may be expended for the procurement of the service of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$3,003,123 of which amount (1) not to exceed \$30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its finding together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994 through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 44—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. PRYOR submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 44

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing

Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed \$1,184,439, of which amount (1) not to exceed \$0 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$0 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$1,209,141, of which amount (1) not to exceed \$0 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$0 may be expended for the training of the professional staff of such committee (under procedures as specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 45—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

##### S. RES. 45

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed \$3,809,967, of which amount (1) not to exceed \$14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$3,890,947, of which amount (1) not to exceed \$14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$15,600 may be expended for the training of the professional staff of such committee (under procedures specified in section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United

States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

#### SENATE RESOLUTION 46—AUTHORIZING EXPENDITURES BY THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. BOREN submitted the following resolution; which was referred to the Committee on Rules and Administration:

##### S. RES. 46

*Resolved*, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Joint Committee on the Organization of Congress is authorized \$475,000 from March 1, 1993, to December 31, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through December 31, 1993, under the resolution shall not exceed \$475,000, of which not to exceed \$5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than December 31, 1993.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through December 31, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

**SENATE RESOLUTION 47—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 47

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 29, 1994, under this resolution shall not exceed \$2,027,632 of which amount (1) not to exceed \$4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed \$4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed \$1,973,136 of which amount (1) not to exceed \$4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed \$4,000 may be expended for the training of the professional staff or such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Door-

keeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

**AMENDMENTS SUBMITTED**

**ETHICS IN GOVERNMENT REFORM ACT OF 1973**

**BOREN AMENDMENT NOS. 1 AND 2**

(Ordered to lie on the table.)

Mr. BOREN submitted two amendments intended to be proposed by him to the bill (S. 5) to grant family and temporary medical leave under certain circumstances, as follows:

**AMENDMENT NO. 1**

In section 101(2)(B)(i) of the bill, strike "less than 50 employees" and insert "fewer than 100 employees".

In section 101(2)(B)(ii) of the bill, strike "less than 50." and insert "fewer than 100".

In section 101(4)(A)(i) of the bill, strike "50" and insert "100".

**AMENDMENT NO. 2**

At the end of the bill, add the following new title:

**TITLE VI—ETHICS IN GOVERNMENT REFORM ACT OF 1973**

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Ethics in Government Reform Act of 1993".

**SEC. 602. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.**

(a) **IN GENERAL.—**

(1) **APPEARANCES BEFORE AGENCY.—**Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"(3) **RESTRICTIONS ON POLITICAL APPOINTEES.—**(A) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who—

"(i) serves in the position of Vice President of the United States; or

"(ii) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who, after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of

such department or agency, shall be punished as provided in section 216 of this title.

"(B) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule, and who—

"(i) after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency with respect to which the person had substantial personal responsibility within 5 years before such termination, during a period beginning on the termination of service or employment as such employee and ending 5 years after the termination of substantial personal responsibility with respect to the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency; or

"(ii) within 2 years after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2)(B) on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by the person described in paragraph (2)(B),

shall be punished as provided in section 216 of this title."

(2) **FOREIGN AGENTS.—**Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (3);

(B) adding after paragraph (1) the following:

"(2) **SPECIAL RESTRICTIONS.—**Any person who—

"(A) serves in the position of Vice President of the United States;

"(B) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(C) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or

"(D) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who after such service or employment acts as an agent of a foreign government or foreign political party shall be punished as provided in section 216 of this title."

(3) **TRADE NEGOTIATORS.—**Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting "(A)" after "IN GENERAL.—"; and

(B) adding at the end thereof the following:

"(B) For any person who—

"(i) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(ii) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or

"(iii) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule, the restricted period after service referred to in subparagraph (A) shall be permanent."

(4) CONGRESS.—Section 207(e) of title 18, United States Code, is amended—

(A) in paragraph (1)(A) by striking "within 1 year" and inserting "within 2 years";

(B) in paragraph (1) by adding at the end thereof the following:

"(D) Any person who is a Member of Congress and who, within 5 years after leaving the position, knowingly makes, with intent to influence, any communication to or appearance before any committee member or a staff member of any committee over which the Member had jurisdiction, on behalf of any other person (except the United States) in connection with any matter on which such former Member seeks action by the committee member or a staff member of the committee in his or her official capacity, shall be punished as provided in section 216 of this title."

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(D) by inserting after paragraph (5) the following new paragraph:

"(6) HIGHLY PAID STAFFERS.—For any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule—

"(A) the restriction provided in paragraph (1)(A) shall apply; and

"(B) the restricted period after termination in paragraph (2), (3), (4), or (5), applicable to such person shall be 5 years."

(b) PENALTIES.—

(1) FUTURE LOBBYING.—Section 216 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) In addition to the penalties provided in subsections (a), (b), and (c), the punishment for violations of section 207 may include a prohibition on lobbying the United States for a period of not to exceed 5 years for each violation."

(2) USE OF PROFITS.—Section 216(b) of title 18, United States Code, is amended by adding after the first sentence the following: "Any amount of compensation recovered pursuant to the preceding sentence for a violation of section 207 shall be deposited in the general fund of the Treasury to reduce the deficit."

#### SEC. 603. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18 United States Code, as added by section 602 of this title—

(1) shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

(2) in the case of officers, employees, and Members of Congress described in section 207(b)(1)(B) of title 18, United States Code (as added by section 602 of this title), shall apply only with respect to participation in trade negotiations or treaty negotiations, and with respect to access to information, occurring on or after such date of enactment.

### NOTICES OF HEARINGS

#### COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, February 18, 1993, at 9:30

a.m., to markup Senate committees' funding resolutions for 1993 and 1994. The committee will also consider S. 2, the National Voter Registration Act of 1993, and other legislative and administrative business pending on its agenda.

For further information concerning this business meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, January 28, beginning at 2:30 p.m., to conduct a business meeting to address organizational matters pertaining to the committee.

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

#### COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, January 28, 1993, at 2 p.m., in closed session, to receive an intelligence community briefing on former Yugoslavia.

The PRESIDING OFFICER. Without objection it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, January 28, 1993 at 3:30 p.m.

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

#### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, January 28, 1993, to hold a hearing on Oversight of the Insurance Industry: Blue Cross/Blue Shield—National Capital Area.

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

#### COMMITTEE ON COMMERCE

Mr. FORD. 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 January 28, 1993, at 2 p.m. on pending committee business.

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

### ADDITIONAL STATEMENTS

#### REPORT ON GOVERNMENT MISMANAGEMENT

• Mr. FEINGOLD. Mr. President, earlier this week, a report prepared by the staff of the House Government Operations Committee was released which detailed more than \$300 billion in waste, fraud, and mismanagement in federally funded programs.

The report concluded that the public perception that waste and abuse are rampant throughout the Federal Government is generally accurate. The investigators found waste and abuse pervades every Federal agency and hundreds of important programs.

Here are some of the most outrageous examples of Government waste:

Billions of taxpayer dollars squandered on health care costs that should have been paid by private insurers;

Billions of dollars worth of unneeded and excess materials gathering dust in Pentagon warehouses;

A faulty computer system in the Department of Education that approves \$800,000 per day in federally guaranteed student loans to ineligible students;

The loss of about \$150 million every year because the Government charges only about 20 percent of the going rate for grazing fees to the 2 percent of the ranchers that use public lands; and,

The payment of \$100 million to a private group in El Salvador that actively woos United States companies to build plants there—in one case resulting in the loss of over 300 United States jobs.

Mr. President, this report vividly demonstrates the pervasive problems that lie at the heart of our Federal deficit. The causes identified in the report for these enormous problems vary, but the key factor contributing to the mismanagement plaguing the Federal Government is a lack of leadership. In recent years, the report concludes, Government agencies have been run by individuals who either do not understand or do not care about the effective management of Government services. Sloppy financial management, wasteful procurement practices, poor management of cash and credit programs, and lack of accountability for proper financial and program operations are all factors identified as contributing to the atmosphere of mismanagement, but at the heart of the problem is a fundamental lack of concern about the necessity of effective management of Government resources.

Mr. President, the taxpayers in the State of Wisconsin and across America are fed up. They have been paying for the wasteful and mismanaged programs outlined in this report for far too long. Now, in part because so many billions of dollars have been squandered away, we are forced to consider reducing funds for worthy programs in order to bring down the Federal deficit.

Mr. President, we must address the deficit in a meaningful way. The first thing that must be done is to clean up the fiscal mess that is described in the House report.

Some, including myself, have proposed deficit reduction packages. Alternatives abound. My own plan includes over 90 specific program cuts and management reforms. Many of these proposals are taken from the 1992 Congressional Budget Office publication on spending and revenue options to reduce the deficit. Others are from a document written by the task force on Government waste called the Challenge of Sound Management. The task force was chaired by my good friend from North Dakota [Mr. DORGAN], and it details waste and mismanagement that is all too similar to the report released by the House Government Operations Committee staff.

Mr. President, we do not lack the information on where waste and mismanagement in federally funded programs exists.

What is missing, Mr. President, is the will to proceed.

It is a task that we must begin. Some programs are mismanaged; others have outlived their usefulness. Still others, although worthy, we simply can no longer afford until we get our deficit spending under control. We must clean up this fiscal mess by rooting out waste and mismanagement, eliminating programs that no longer serve essential purposes, and cutting back on programs that can be reduced without eliminating vital services.

The task of reducing the Federal deficit is enormous and it will require hard decisions and shared sacrifices by all Americans. But we cannot expect our people to shoulder willingly their fair share of the sacrifice when billions of dollars are lost through Government waste and mismanagement.

Mr. President, I recognize that eliminating waste and mismanagement will not be enough alone to bring the Federal budget into balance. We are going to have to do more, including cutting back on Government spending for some popular programs. In the next few weeks, I intend to describe the principles that I will be applying in evaluating which programs must be reduced while we are working to eliminate the Federal deficit.

In the meantime, this report and those which have preceded it highlight some of the most critical places to begin the work of reducing the Federal deficit. If we fail, this Nation may never recover its economic strength and we will leave our children and grandchildren with a shameful legacy of debt.

I ask that an article which appeared in the Washington Post on January 25, 1993, summarizing the report of the House Government Operations Committee staff be reprinted in the RECORD at this point.

The article follows:

[From the Washington Post, Jan. 25, 1993]

HOUSE PANEL'S REPORT DETAILS WASTED BILLIONS

(By Stephen Barr)

There has never been any doubt that waste, fraud and abuse keep the government on the defensive, with regular alerts issued by the General Accounting Office, inspectors general and special panels, such as the Reagan-era Grace Commission.

In a report scheduled for release today, the Democratic staff of the House Government Operations Committee has calculated that the federal government lost more than \$300 billion because of waste, fraud and mismanagement in recent years, with most of the losses occurring since 1988.

"Government waste has not only bilked the taxpayer of hundreds of billions of dollars, but it has created a public cynicism about government at a time when effective government is needed the most," the staff report said.

While the Democratic report may be read as partisan in nature—President George Bush is accused of "fed bashing," for example—its listing of troubled programs and agencies points up the responsibility that the Clinton administration and congressional Democrats have assumed as they attempt to "reinvent government" after 12 years of divided rule in Washington.

Congress "deserves some blame," the staff report acknowledged. "Congress has been a partner to budget cuts to agency programs that have resulted in less audit coverage and evaluation of those very programs, as well as to cuts that have hollowed out the ability of agencies to carry out their missions."

Examples abound that portray a government using unreliable systems and ineffective controls. According to the staff report:

In the mid-1980s, the Energy Department's inspector general set up a plan to audit the department's largest contractors every five years. Three years into the five-year plan, only 348 of an estimated 2,500 audits had been completed.

The Energy Department was not aware that one of its contractors lost 10,000 secret government documents.

The Interior Department spent \$66 million subsidizing the cost of irrigating farmlands to produce corn, barley, rice and cotton. The Agriculture Department, meanwhile, paid the same farmers \$379 million to limit surplus crop production.

The Education Department is approving \$800,000 per day in student loans to ineligible recipients because of faulty computer systems.

Tribal and Indian accounts in the Bureau of Indian Affairs' \$2.1 billion trust fund are so poorly maintained that they have never been reconciled.

The staff report provides numerous, lengthy examples of procurement problems and mismanagement at the Defense, State, Health and Human Services and other departments. Some of the programs, such as the Superfund cleanup and the savings and loan bailout, have been the subject of congressional hearings and investigations.

In addition to \$310.7 billion lost to the Treasury because of mismanagement, the report estimated that the government will lose an additional \$59.5 billion in the next few years without corrective measures.

The staff said it also identified \$14.9 billion in annual potential savings, available in the near term, if administrative or legislative changes were made. Areas where savings

could be achieved included loan programs, timber sales, fishery programs, weapons procurement and health care benefit programs. The report, based on figures from federal audits and reviews, said the actual losses and expected future losses may be understated because figures are not available in all areas or auditing has not been done.

The staff report, "Managing the Federal Government: A Decade of Decline," calls for a bipartisan effort to find ways to make "the proper investments in the right programs."

The Democratic staff, which reports to committee Chairman John Conyers Jr. (D-Mich.), offered a series of recommendations. They begin by urging the president to "give personal attention" to major management initiatives and for the Office of Management and Budget to establish a group of 50 management experts "to police agency operations" and help develop long-term solutions.

In the area of procurement, the staff recommends an overhaul of the regulations and paperwork requirements "that keep many competitors out of the federal market." Agencies also should be allowed to buy off-shelf, commercial products that meet their needs, the report said.

The government's slipshod financial management practices should receive priority attention, the staff said, beginning with a continued commitment to appointing "highly qualified" chief financial officers.

All agencies should be required, the staff said, to use appropriate and cost-effective debt collection methods. The staff recommended that agencies should examine the feasibility of eliminating guaranteed loans and returning to direct loan programs.

In keeping with past reports on public service, the staff also urged that the president and Cabinet members lead efforts to attract top quality applicants for civil service careers.

The staff suggested that the quality of political appointees could be improved by requiring the same standards and review boards that judge career Senior Executive Service employees. In addition, the staff said, the number of political appointees should be cut and more career SES members named to mid- and upper-level federal jobs.

"Without increasing the capacity of federal agencies to oversee their operations, maintain their facilities, and embark on innovative research and programs, the cost to the taxpayers will continue to be scandals of massive proportions," the Democratic staff said.

COSTS OF MISMANAGEMENT

(Selected examples from Federal and congressional reviews)

\$150 billion to \$300 billion: The 30-year price tag for careless handling of hazardous wastes at federal nuclear weapons plants.

\$94 billion: Value since 1987 of land patents handed out by the government to mining companies. Taxpayers will get no compensation for the value of the minerals mined under these federal lands.

\$30 billion: Value of unneeded and excess materials in Pentagon warehouses, including about \$21 billion in spare parts, clothing and other supplies, and \$9.4 billion in excess materials.

\$21 billion: Total amount of estimated federal health care fraud and abuse. For example, Medicare and Medicaid annually pay \$2 billion to \$3 billion in health costs that private insurers are liable for. Laboratories charge the government at least \$400 million a year more than they charge hospitals for the same tests.

\$13 billion: Amount of civil and criminal fines due the U.S. Treasury that the Office of Management and Budget estimates the Justice Department should be going after.

Source: "Managing the Federal Government: A Decade of Decline," a majority staff report to the House Committee on Government Operations. •

#### THE C-17

• Mr. D'AMATO. Mr. President, things just go from bad to worse with the C-17. Having adjusted the minimum acceptable performance thresholds for the C-17 several times, the Air Force has determined that the C-17 still will not meet the contractual specifications for range/payload. In typical fashion, the latest shortcomings are minimized by those responsible for this debacle. One wonders why the Air Force continues to pretend to have contract specifications. Why not just buy whatever defense contractors decide to sell, and end the charade that we are actually holding suppliers to some measure of performance?

I ask that an article that appeared in the Defense Week on January 25, 1993, entitled "USAF: C-17 Falls Short of Payload Specs, Needs Diet" be entered into the RECORD at this point as if read in entirety.

The article follows:

#### USAF: C-17 FALLS SHORT OF PAYLOAD SPECS, NEEDS DIET

Already reeling from new charges of Air Force malfeasance on behalf of the nation's No. 1 defense contractor, the \$35 billion C-17 program is failing to meet cargo-ferrying contract specifications, according to Air Force documents.

Air Force computer runs using material provided by the McDonnell Douglas Corp. project that the aircraft will fail to meet its so-called "range/payload" goals for four primary missions.

"Analysis of initial missions and test points indicate the aircraft will not meet performance requirements unless modified," said an Air Force analysis presented Jan. 8 to outgoing Undersecretary for Acquisition Donald Yockey.

Scrambling to meet the performance requirements, the Air Force and McDonnell Douglas are reviewing how to cut over 43,000 pounds from the 268,000 pound aircraft.

Among the weight reduction issues is development of composite sections such as the nacelle, vertical tail and horizontal stabilizer, which could save 5,000 pounds, 920 pounds and 750 pounds, respectively. But the new parts would take between 24 and 48 months to develop and cost McDonnell Douglas roughly \$130 million.

These contract issues are separate from the charges contained in a still-unreleased report by the Pentagon Inspector General which detailed potentially improper actions by several past and current Air Force officials to accelerate payments to McDonnell Douglas in late 1990. A company spokesman said last week the report was being reviewed to see whether it contained proprietary business information.

Air Force and Pentagon officials stressed last week that although the company may be out of compliance with the contract, failing to meet the range/payload requirements

would not hamper operations. For example, less than one percent of the transport flights flown during the gulf war hauled their full, maximum load, said an Air Force official.

"There's no one-to-one relationship operationally between the numbers you are losing and fleet operations but its' contractual obligation," said one Pentagon official. "If they don't meet the spec, they'll have to pay something."

McDonnell Douglas spokesman James Ramsey said the company was working with the Air Force to reduce drag and excess fuel consumption, two factors that theoretically reduce payload.

"We feel that this is a very aggressive program and we will have some impact to solve shortfalls down the line," Ramsey said.

"At this point, we are confident that we can make our major commitment—the 160,000 pounds over 2,400 nautical miles unrefueled. That's what we feel is the most stringent of the requirements. We are fairly confident that we can make that," Ramsey said.

Another solution to solving the payload shortfall might involve modifying how the plane is flown. "We are talking about how the user flies the airplane and not necessarily how 10 years ago the specs were drawn up," Ramsey said.

The C-17 program office at press time had not yet completed a statement to *Defense Week* about the potential payload shortfall.

In the first of four mission scenarios with projected payload shortfalls, the C-17 must be able to haul 160,000 pounds of cargo 2,400 miles without refueling. The Air Force now concludes that unless the aircraft is modified, it will fall 9,775 pounds and 224 miles short of that goal.

The second scenario requires the aircraft to haul 150,000 pounds of cargo 2,700 miles. The current projection indicates a shortfall of 12,572 pounds and 295 miles. The third scenario calls for carrying 130,000 pounds of cargo 3,200 miles; this goal is projected to be 36,655 pounds and 322 miles off the specs.

A fourth scenario calls for carrying 120,000 pounds of cargo 2,800 nautical miles. This goal is projected to be off by 12,627 pounds and 319 miles.

"The aircraft weighs more than they thought it was going to be, the fuel consumption is more than they thought it would be and the drag was more than they thought it would be," said a Pentagon official familiar with the issue.

The current range/payload specifications were hashed out between the Air Force and the McDonnell Douglas Corp. in March 1991 as part of contract negotiations on the third production lot of C-17s. McDonnell Douglas' winning 1981 C-17 contract promised a maximum payload of 172,000 pounds flown 2,400 miles.

Then-U.S. Transportation Command commander Gen. Hansford Johnson told the Senate Armed Services Committee during May 1991 testimony that the revised performance criteria were thresholds representing the "minimum acceptance capability."

The incremental reduction in the C-17s range/payload specifications drew the ire of the committee two months later in its version of the fiscal 1992 defense authorization act. "The continual downgrading of the C-17 performance requirements is worrisome in that the case for developing a new airliner rather than extending production of existing aircraft rested on the assertion of improved performance and greater capability."

Pentagon Deputy Inspector General Derek Vander Schaaf made the same point in May

1992 testimony before the House Government Operations Committee. "You are paying this very high premium, \$308 million per aircraft, for basically a vehicle that serves, in a sense, like a truck . . . It isn't the high tech stuff to do actual combat."

While not dismissing the contractual aspects of the situation, a senior Pentagon official said the payload shortfall should not impact operations.

"The airplane runs out of square feet long before it runs out of pounds," said an official.

This official said the C-17 in most cases will operate in tandem with other transports, such as the monster C-5B and C-141, so that cargoes can be shifted around.

"Most cargoes are made up of bits and pieces and can be moved to a different aircraft. The only time you'd have problems is if you carried a single piece of equipment weighing 160,000 pounds such as a tank, which doesn't weigh that much. There's practically nothing else that would give you some problems."

Meanwhile, despite the projected payload shortfall, a top level civilian review of the embattled transport has concluded that the program should not be canceled because of poor contractor performance.

The conclusion was rendered to Yockey during a series of briefings Jan. 12. Yockey wanted a quick assessment of the program's overall health before he left office.

"We saw no reason not to continue the program or bail-out the McDonnell Douglas Corp. or do anything dramatic," said a senior Pentagon official familiar with the review.

The Yockey review concluded that the aircraft was cost effective, and that McDonnell Douglas had the financial wherewithal to do it, the official said. "But it's going to take time."

"There is no reason to change the course we are on," the senior official said. "The airplane is still cost effective. MDC can solve the problems efficiently and they are not going to go bankrupt because of this program." •

#### BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report, which is the first for fiscal year 1993, shows the effects of congressional action on the budget through January 21, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget—House Concurrent Resolution 287—show that current level spending is below the budget resolution by \$2.1 billion in budget authority and \$0.5 billion in outlays. Current level is \$0.5 billion above the revenue floor in 1993 and above by \$1.4 billion over the 5 years, 1993-97. The current estimate of

the deficit for purposes of calculating the maximum deficit amount is \$392.4 billion. \$28.4 billion below the maximum deficit amount for 1993 of \$420.8 billion.

The report follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, January 26, 1993.

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

DEAR MR. CHAIRMAN: The attached report, my first for fiscal year 1993, shows the effects of Congressional action on the budget for fiscal year 1993 and is current through January 21, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Sincerely,

ROBERT D. REISCHAUER,  
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE,  
103D CONG., 1ST SESS., AS OF JAN. 21, 1993  
(In billions of dollars)

	Budget resolution (H. Con. Res. 287)	Current level <sup>1</sup>	Current level +/- resolution
<b>On-budget:</b>			
Budget authority	1,250.0	1,247.9	-2.1
Outlays	1,242.3	1,241.8	-.5
Revenues			
1993	848.9	849.4	+5
1993-97	4,818.6	4,820.0	+1.4
Maximum deficit amount	420.8	392.4	-28.4
Debt subject to limit	4,461.2	4,056.6	-404.6
<b>Off-budget:</b>			
Social Security outlays:			
1993	260.0	260.0	—
1993-97	1,415.0	1,415.0	—
Social Security revenues:			
1993	328.1	328.1	(?)
1993-97	1,865.0	1,865.0	(?)

<sup>1</sup> Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.  
<sup>2</sup> Less than \$50,000,000.  
Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 21, 1993

	Budget authority	Outlays	Revenues
<b>ENACTED IN PREVIOUS SESSIONS</b>			844,800
Revenues			844,800
Permanents and other spending legislation	757,985	733,143	
Appropriation legislation		241,891	
Offsetting receipts	(187,433)	(187,433)	
<b>Total previously enacted</b>	<b>570,552</b>	<b>787,601</b>	<b>844,800</b>
<b>ENACTED 2D SESS., 102D CONG.</b>			
<b>Appropriation legislation:</b>			
1992 rescissions (Public Law 102-298)		(1,829)	
Disaster assistance for Los Angeles and Chicago (Public Law 102-302)		44	
1992 Supplementals (Public Law 102-368)	500	1,451	
Agriculture (Public Law 102-341)	60,170	40,228	
Commerce-Justice-State (Public Law 102-395)	22,835	16,781	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 21, 1993—Continued

	Budget authority	Outlays	Revenues
Offsetting receipts	(128)	(128)	
Defense (Public Law 102-396)	253,786	165,979	
District of Columbia (Public Law 102-382)	688	688	
Energy and water (Public Law 102-377)	22,080	12,386	
Foreign operations (Public Law 102-391)	14,114	5,693	
Offsetting receipts	(43)	(43)	
Interior (Public Law 102-381)	12,037	8,328	
Labor-HHS-Education (Public Law 102-394)	213,761	171,439	
Offsetting receipts	(46,250)	(46,250)	
Legislative branch (Public Law 102-392)	2,275	1,952	
Military construction (Public Law 102-380)	8,389	2,948	
Transportation (Public Law 102-388)	13,197	12,099	
Treasury-Postal Service (Public Law 102-393)	22,384	19,386	1
Offsetting receipts	(6,471)	(6,471)	
Veterans-HUD (Public Law 102-389)	85,794	46,286	
<b>Other spending legislation:</b>			
Emergency unemployment compensation extension (Public Law 102-244)	600	600	500
Food Stamp Family Welfare Reform Act (Public Law 102-281)	(26)	(26)	
Extend certain expiring veterans' programs (Public Law 102-291)	(1)	(1)	
Unemployment compensation (Public Law 102-318)	3,372	3,372	3,526
Transfer certain naval vessels (Public Law 102-322)			5
Higher education amendments (Public Law 102-325)	(103)	(123)	
Partial restoration of highway obligatory authority (Public Law 102-334)		28	
Public Yew Act (Public Law 102-335)	1	1	
Prevent annual food stamp price adjustment (Public Law 102-351)	330	330	
Health professions education extension amendments (Public Law 102-408)	(49)	(49)	
WW II, 50th Anniversary Commemorative Coins Act (Public Law 102-414)	(8)	(8)	
National Defense Authorization Act, fiscal year 1993 (Public Law 102-484)	26	(41)	( <sup>1</sup> )
Energy Policy Act of 1992 (Public Law 102-486)	68	68	590
Intelligence Authorization Act, fiscal year 1993 (Public Law 102-496)			1
Preventive health amendments (Public Law 102-531)	30	30	
Telecommunications Authorization Act (Public Law 102-538)	(2)	(2)	( <sup>1</sup> )
Veterans' Home Loan Program Revitalization Act (Public Law 102-547)	1	1	
Housing and Community Development Act (Public Law 102-550)	(26)	(26)	
Audio Home Recording Act (Public Law 102-563)	(50)	(50)	
Veterans' Benefits Act (Public Law 102-568)	(40)	(14)	
Federal Courts Administration (Public Law 102-572)	10	10	2
Reclamation Projects Authorization and Adjustment Act (Public Law 102-575)	(38)	(38)	
Veterans' radiation exposure amendments (Public Law 102-578)	2	2	
Airport and Airway Safety, Capacity and Noise Improvement Act (Public Law 102-581)	2,050		
High Seas Driftnet Fisheries Enforcement Act (Public Law 102-582)	4	4	
Veterans' Health Care Act (Public Law 102-585)	1	1	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 21, 1993—Continued

	Budget authority	Outlays	Revenues
Cash Management Improvement Act (Public Law 102-589)	(8)	37	
Homeless Veterans Comprehensive Service Programs Act (Public Law 102-590)	4	4	
Private relief acts (PVL 8,11,13,15,18,19)	( <sup>1</sup> )	( <sup>1</sup> )	
Discretionary estimating adjustment (House Concurrent Resolution 287)		(1,848)	
<b>Total enacted 2d sess., 102d Cong.</b>	<b>685,268</b>	<b>453,232</b>	<b>4,625</b>
<b>ENTITLEMENTS AND MANDATORIES</b>			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(7,928)	962	
<b>Total current level<sup>2</sup></b>	<b>1,247,892</b>	<b>1,241,794</b>	<b>849,425</b>
<b>Total budget resolution<sup>3</sup></b>	<b>1,249,990</b>	<b>1,242,290</b>	<b>848,890</b>
<b>Amount remaining:</b>			
Under budget resolution	2,098	496	
Over budget resolution			535

<sup>1</sup> Less than \$500,000.  
<sup>2</sup> In accordance with the Budget Enforcement Act, the total does not include \$1,135 million in budget authority and \$6,983 million in outlays in emergency funding.  
<sup>3</sup> Includes revision under section 9 of the concurrent resolution on the budget.  
Note.—Amounts in parentheses are negative.

TRIBUTE TO GREENSBURG

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to Greensburg in Green County.

Greensburg is a small town located in the hills straddling the Green River, about 80 miles south of Louisville. It is a town rich in history with a tremendous amount of economic development potential. The town is full of historic buildings, and efforts are underway to restore many of them. The local courthouse, billed as the oldest courthouse west of the Alleghenies, has been restored to its 19th century condition. An old general store was recently renovated and reopened as a two-story antique mall. Greensburg has so much history that many believe that the way to achieve economic growth is by focusing on this historical theme.

Greensburg is taking great strides toward the future as well. Though a large part of its economy is based on farming, there is an industrial park outside of town with a few factories. A new \$4 million middle school, complete with current educational technology, opened in 1990 and has won national awards for its design. There have been recent major improvements to the country's infrastructure, specifically to the road system.

On top of all this, there are the people of Greensburg. The close-knit community is based on religious and family traditions, yet residents welcome visitors as if one of their own. Life in Greensburg is relaxed, mixing the past with the present, inviting progress but

not at the expense of its deep-rooted history.

I applaud Greensburg's efforts to maintain its historical charm, but at the same time its move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that this tribute and a recent article from Louisville's *Courier-Journal* be submitted to today's CONGRESSIONAL RECORD.

The article follows:

GREENSBURG: IF YOU KNOW TOO MUCH ABOUT IT, YOU'LL ADOPT IT

(By Cynthia Crossley)

First-time visitors to Greensburg should know that if they lock their cars on the Public Square, folks will immediately peg them as being "from off"—strangers.

So, if you're new in town, the only decent thing to do is to head straight to The Corner Drug Store, get a cup of coffee and take a seat. The questions are sure to follow.

Greensburg folks will want to know where you're from, what brought you to town and, perhaps, what you think of the weather.

Expect some other questions too: "Have you seen our footbridge?" "Did you know that our courthouse is the oldest west of the Alleghenies?"

And quickly you will hear about a small town that seems to have so much charm per capita that Mayor Bill Edwards calls it "a contagious city. . . . If you know too much about it, you'll adopt it."

Nadine Brewer, writing for *National Geographic* magazine in 1982, had this to say about the people in Green and surrounding counties:

"Though steeped in religious and family traditions, they welcome newcomers. A simple, relaxed people, they are an unexpected meshing of past and present, inviting progress but not at the cost of old-time pleasures and values."

Ten years later, that description still rings true. Greensburg, the seat of a farming county, is dominated by a large feed mill, a farm equipment dealership and two large tobacco warehouses. Central Greensburg also seems to have a church on every corner.

But in another part of town known as "Hospital Hill" there is an industrial park with a few factories as well as the hospital. A \$4 million middle school—complete with broadcasting and computer classrooms, a landscaped courtyard, an amphitheater and wireless microphones for the stage—sits on another hillside.

Completed in 1990, the school has won national design awards and prompts school officials from other countries to tell principal Mike Mills: "I don't think we can afford your architect."

Edwards likes to point out the road improvements under way around Greensburg—widening roads, straightening curves, building a bypass. Part of the 10-mile road to Campbellsville is being improved, easing the chore of reaching the region's shopping centers.

(A Greensburg resident recently grouched: "If you want to see someone from Greensburg, all you have to do is go to the Wal-Mart in Campbellsville.")

But while some residents look forward to the improved roads, others are looking to Greensburg's past as a way develop the town's future. Greensburg has a lot of nifty old buildings, and efforts are under way to find new uses for them.

Some experts think small towns should specialize and develop economically along a

certain theme, said Walt Gorin, publisher and managing editor of the *Greensburg Record-Herald*. He said economic growth may come to Greensburg if the town focuses on a historic theme.

"Greensburg has such a rich history; that might be one way Greensburg could go. The potential is here."

Among Greensburg's historical structures are several that date to the era when Greensburg was the end of the line for the railroad that ran into south-central Kentucky. There's the old L&N Railroad depot, now unused, which was built in 1913.

And there's the footbridge, built to help railroad passengers conquer Greensburg's hills. Before the footbridge, people leaving the station had to go down one set of hillside steps, cross tiny Goose Creek, and trudge up another flight to get to the center of town. One can imagine the thoughts of weary passengers faced with lugging suitcases up a flight of more than 70 steps to Greensburg's main hotel.

In 1928 Greensburg built the steel footbridge to connect the station with the Public Square. The bridge stands today, 38 feet in the air and 445 feet long. It seems to get used a lot. Even when the bridge was being painted recently, people strolled across it after workers had knocked off for the day.

The footbridge provides many visitors with an interesting view of town. A favorite sight for city clerk Wilma DeSpain used to be the jumble of vegetables and flowers grown by local artist Pansy Phillips on a balcony at the back of her Public Square apartment. Phillips has since died, and her garden is no more, but the balcony is still there.

The footbridge ends beside another colorful building, the old Greensburg City Hall and Water Plant. Built by the Works Progress Administration in 1936, it is a tiny example of the typical WPA style. It includes a louvered rooftop tower that hides a 7,500-gallon water tank. Another concrete water storage tank tunnels into the hillside in the back.

Like the station, this building also sits empty. A 1983 guide to "Historical Architecture of Green County, Kentucky" noted that both the depot and the water-works plant might be used in new commercial ventures. But so far that hasn't panned out.

What has started is a commercial venture in another historic building on the square. An old general store, the Woodson Lewis building, which sat empty for several years, recently reopened as a two-story antique mall. A top priority for the eight investors—including some local dentists and pharmacists, County Attorney Sam Moore II and Jim Frank, finance officer for the Green County Board of Education—was preserving the building. Their investment seems to be off to a good start. By the time the mall opened in early November, they had leased more than half of the building.

Recently Frank paused in describing the renovation of the general store and looked out a window at the 1830s Green River Hotel building across the street. It ceased operating in the 1950s and now houses Perk's Barber Shop and Betty's Country Kitchen. The restaurant has a large old neon sign that says, "EAT".

"We'd love to get ahold of the old hotel building and restore it too," Frank said a bit wistfully.

When state officials evaluated Greensburg recently on its economic development potential, they encouraged the idea of renovation. But the big stumbling block is money. Greensburg has plans and ideas, but no way to carry them out.

Greensburg has managed some preservation—the old courthouse, for example. Finished in 1804 and billed as the oldest courthouse west of the Alleghenies, the two-story limestone building survived 135 years, of use and a major controversy over whether it should be torn down. A federal grant financed the restoration right down to the brick flooring and wooden judge's bench.

Today it serves as a focal point for social functions. At least two weddings a year are held in the courtroom. In exchange for the charming setting, brides must contend with limited seating and the difficulty of making a graceful entrance in a wedding gown and train while negotiating a steep, narrow staircase. At Christmas the courthouse is decorated with candles and a big tree, and Santa Claus visits. Sometimes, after a community service at a nearby church, the congregation walks to the courthouse to sing carols, drink spiced tea and enjoy a fire in the courtroom's stone fireplace.

Greensburg also has "preserved" a building with a different kind of "historical" value. Adolphus Ennis's Lunchroom, home of the original "Slawburger, Fry and a Bottle of Ski," now called the "Kentucky Headhunters Lunchroom." The Headhunters immortalized that meal in their hit song "Dumas Walker," and that prompted a lot of fans to track down the lunchroom.

"For a while, they were coming in here in carloads. I met a whole lot of people and I enjoyed it," said one of the cooks, a fellow who calls himself "Judd" and will not acknowledge another name.

After the Headhunters regrouped and the song faded, the demand for slawburgers has slowed some.

Over at Greensburg Bottling Co., where Ski, the citrus soft drink, is produced locally, co-owner James DeSpain says he can't see any Headhunter impact on sales these days. Additional demand is more likely to come from natives now living in places like California and Japan. When those expatriates get thirsty for their hometown drink, they ask their Greensburg relatives to ship them cases of Ski.

And then there's a preservation of another sort; Greensburg still holds Cow Days. In the old days, they raffled off a cow. No one gets a cow anymore, because the Greensburg Rotary Club, the festival sponsor, uses a fiberglass Holstein for the job. "Annie the Cow" has a working udder, and the festival invites politicians to compete in "milkoffs." But like politicians, that can be misleading; Annie actually gives only Kool-Aid. The original specifications called for milk, but the health department halted that flow when it discovered that the udder wasn't refrigerated.

While no one expects Cow Days to be a big draw to outsiders—those folks "from off"—they hope more people will consider coming to Greensburg in search of history, if not for antiques, then perhaps for genealogical research, since other counties were formed out of Green County back in the 1700s.

"Greensburg is such a well-kept secret," said Nancy Stearman, a certified public accountant originally from Jefferson County. "If we do have all kinds of folks come here, I hope it doesn't spoil the charm. Greensburg is a neat little town."

Education: Green County Schools, 1,730 students. Campbellsville College is 11 miles northeast of Greensburg; Lindsey Wilson College is 20 miles south, and Elizabethtown Community College is 40 miles northwest.

Transportation: Taylor County Airport, with one 6,000-foot paved runway, is 12 miles

northeast of Greensburg. Nearest passenger service is 80 miles north of Greensburg at Louisville's Standford Field. Twelve truck lines serve Greensburg.

Topography: Greensburg sits on a series of small hills, and straddles the Green River. Green River Lake is about 10 miles east of Greensburg.

Population (1990): Greensburg, 1,990; Green County, 10,371.

Per capita income (1989): \$11,233, or \$2,590 below state average.

Jobs (1990): Manufacturing, 930; wholesale/retail, 355; services, 242; state, local government, 461; contract construction, 42.

Big employers (1992): Fruit of the Loom, 500 employees; Green County Board of Education, 254; Jane Todd Crawford Memorial Hospital, 170; Greensburg Manufacturing Co., 155; Clark Casual Furniture, 75.

Media: Newspapers—The Record-Herald, weekly. Radio—WAKY-AM, oldies; WGRK-FM, country. Television—Cable available.

#### FAMOUS FACTS AND FIGURES

Created in 1792, Green County was named for Revolutionary War Gen. Nathaniel Greene, its old limestone courthouse, built on Public Square between 1802 and 1804, is billed locally as "the oldest courthouse west of the Alleghenies." but a state marker calls it "one of the oldest public buildings still standing in Kentucky."

The chain that links the stone columns that line the courthouse lawn is said to be from a Confederate chain that was stretched across the Mississippi River to block traffic during the Civil War.

On Christmas Day in 1809, 46-year-old Green County resident Jane Todd Crawford survived some history-making surgery. Dr. Ephraim McDowell removed a 23-pound ovarian tumor at his home in Danville. Crawford had ridden a horse 80 miles and underwent the operation without anesthesia. Five days after the operation, Dr. McDowell found her up and making her bed. She returned home, later moved to Indiana, and died 32 years later. Green County still honors Crawford; its hospital is named for her.

Abraham Lincoln's law partner, William H. Herndon, was born in Greensburg in 1818. Herndon's family moved to Illinois two years later.

Greensburg provided the Union with two generals during the Civil War. Brig. Gen. E.H. Hobson, 1825-1901, led the 13th Kentucky Infantry at Shiloh, Corinth and Ferryville, and chased and caught Confederate raider John Hunt Morgan in Ohio. Maj. Gen. William T. Ward, 1808-1878, accepted Atlanta's surrender in 1864.

The former A. Ennis & Son lunch room on Public Square is where the Kentucky Head-Hunters liked to stop for "a slawburger, fries and a bottle of Ski." The lunchroom is still open, though under new management.●

#### REINTRODUCTION OF THE CIVILIAN COMMUNITY CORPS LEGISLATION

● Mr. WOFFORD. Mr. President, I am proud to join Senators BOREN and SIMON in reintroducing the Civilian Community Corps legislation in the 103d Congress.

Since passing this legislation along with two other civil-military youth service initiatives as part of last year's Department of Defense authorization and appropriation bills, the idea of national service has, with the election of

President Clinton, taken a quantum leap forward. And as his initiative powerfully demonstrates, service is an issue that transcends ideology, region, and party.

Building on and enhancing the work of the Commission on National and Community Service, the Civilian Community Corps offers a unique, residential, federally run service and conservation model that complements the work of other programs currently funded by the Commission.

Little social inventions have emerged in response to community needs all across the country, the very best of which are youth-led, youth-driven, and diverse by design. To this we now add a Federal pilot, a Federal invention coupling defense conversion with youth service, to be tested and developed. This program now offers another Federal option that with Peace Corps and VISTA should expand the number of opportunities young people have to serve. With strong bipartisan congressional support and dynamic Presidential leadership, it is now time that these pilots, Federal and grassroots alike, ignite the furnace.

Finally, Mr. President, let me underscore the point that Federal efforts should neither replace nor duplicate non-Federal efforts. Grassroots efforts should always be preferred over Federal ones as we develop a diverse, voluntary, universal system of national and community service.

Our youth—in all their diversity and with all their creative energies and talents—are ready to lead. It is time we enable them to do so.

I warmly salute Senators BOREN, SIMON, NUNN, DOLE, McCAIN, REID, MIKULSKI, KENNEDY, and others for their leadership in this endeavor. I offer special thanks in particular to a former member of my staff, David Balducci, as well as Brian Kennedy of Senator SIMON's staff, Beth Garrett of Senator BOREN's staff, and Chris Murphy formerly of Senator KENNEDY's staff and now with the Commission on National and Community Service for their tireless work crafting this initiative.

The "dance of the legislation" as my friend, Eric Redman, calls it was arduous and continues, but it has paid off in a program that will empower youth to transform this Nation, and in the process themselves, through service.●

#### RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JOHNSTON. Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on Energy and Natural Resources.

The rules of the committee follow:

#### RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

##### GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

##### MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee. Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

##### OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

##### HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is non-controversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

##### BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Sub-

committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

#### QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless eleven Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

#### VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

#### SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

#### SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

#### CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

#### DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

#### BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

#### AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting. •

#### REPORT OF MNCARE COMMISSION

• Mr. DURENBERGER. Mr. President, Minnesota is a national leader among the States in health care reform, as it

is in so many areas. As we search for ways here in Washington to improve the health of Americans, I want to inform my colleagues about a significant step taken by Minnesota this week.

Over a year ago, a bipartisan coalition in this legislature, working with Gov. Arne Carlson, enacted a comprehensive State health reform, which has come to be called MNCare. The first step in MNCare is the report from a broad-based group of representatives of various health care actors, which was released this week.

The report starts Minnesota's progress toward universal access on the right foot: cost control. Our access problem in Minnesota, and across the country, is based on the medical cost spiral in the first place—people being priced out of the market for insurance coverage—so that is the place to begin.

The report identifies three forms of cost control which Minnesota will implement:

First, use of integrated service networks [ISN's].—By establishing systems which provide the full array of medical services for a fixed price per purchaser, ISN's create powerful incentives for efficiency.

For my colleagues familiar with the terminology of managed competition in health care, the ISN is another name for the accountable health plans, through which we hope to provide efficient, high quality coverage for all Americans. Price and quality will both improve when consumers can compare various products in the market place.

Second, global price growth limits.—The State Commission of Health will set overall price increase limits for all public and private health spending. The target will be to reduce the projected rate of growth by 10 percent per year, without micromanaging health care decisions.

Third, consumer behavior changes.—Too many preventable illnesses and accidents are ruining lives and adding to the cost of our health system. We need to redouble our public health efforts to encourage people to take responsibility for staying healthy by buckling up, reducing intake of tobacco and alcohol, and eating a healthier diet.

While I have some reservations with what Minnesota is doing, especially in the area of global budgets, and many of the specifics are unclear, I prefer the way Minnesota is doing health reform to the way the Federal Government isn't.

Minnesota has adopted a very useful system approach. It looks at the behavior of each of the five actors in the health system, consumers, providers, employers, insurers, and government as part of the problem and part of the solution. The composition of the MNCare Commission, which wrote this report, shows that everybody who matters is on board. They know, to paraphrase Ben Franklin's words, that as

members of the health system they will either hang together, or hang separately.

On the Government side, if we can somehow develop, here in Washington, the same spirit of bipartisanship and the ability of the legislative branch to work with the executive that they have in St. Paul, we'll be in business. Health reform is too expensive and controversial to proceed through confrontation; consensus is fundamental to the progress of health reform.

Try as it might, Mr. President, there is only so much Minnesota can do as an island of health reform. Cross-border issues with nearby Wisconsin, Iowa, and the Dakotas will certainly create problems. The Federal ERISA law constrains certain kinds of activities on the part of the States. And the part of the puzzle most people leave out, Federal tax laws, play a huge role on how all the actors in the system make decisions.

I am encouraged by the priority the new administration has placed on health reform. I look forward to action, and state that I am ready, to participate in the national effort to build the consensus behind reform.

Mr. President, I ask that part of the MNCare report, and a good editorial from the Minneapolis Star Tribune on this subpart appear at this point in the RECORD.

The material follows:

CONTAINING COSTS IN MINNESOTA'S HEALTH CARE SYSTEM

(A Report to Gov. Arne H. Carlson and the Minnesota Legislature)

MINNESOTA HEALTH CARE COMMISSION MEMBERS

Health Care Provider Representatives: Gerald Brost, Provider Representative; Jasper Daube, Minnesota Medical Association Representative; Gayle Hallin, Provider Representative; Robert Kelly, Rural Physician Representative; Gretchen Musicant, Minnesota Nurses Association Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

Consumer Representatives: Delores D'Aquila, Consumer Representative; Virginia Greenman, Consumer Representative; Jacqueline Smith, Consumer Representative; Tom Swain,\* Over 65 Consumer Representative; and Diane Wray-Williams, Consumer Representative.

Health Plan Company Representatives: James Ehlen, MEDICA; George Halvorson, Minnesota Council of HMO's Representative; Richard Niemiec, Blue Cross Blue Shield of Minnesota Representative; and Mary Miller, Insurance Federation of Minnesota Representative.

Employer Representatives: Catherine Anderson, Employer Representative; Joy Barbre, Minnesota Chamber of Commerce Representative; Wayne Holtmeier, Minnesota Chamber of Commerce Representative; and Bernard Reisberg, Employer Representative.

Labor Union Representatives: Peter Benner, AFSCME Representative; Judy Schaubach, Labor Union Representative; and William Peterson, AFL-CIO Representative.

Commissioners: Linda Barton, Commissioner of Employee Relations; Bert McKasy,

Commissioner of Commerce; and Natalie Steffen, Commissioner of Human Services.

COMMITTEES OF THE COMMISSION

Cost Trends and Measurement: Richard Niemiec,\* Blue Cross Blue Shield of Minnesota Representative; Gerald Brost, Provider Representative; Jasper Daube, Minnesota Medical Association Representative; James Ehlen, Health Plan Representative; Virginia Greenman, Consumer Representative; George Halvorson, Minnesota Council of HMO's Representative; Mary Miller, Insurance Federation of Minnesota Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

Consumer Incentives, Prevention, and Public Health: Gayle Hallin,\* Provider Representative; Catherine Anderson, Employer Representative; Wayne Holtmeier, Minnesota Chamber of Commerce Representative; Robert Kelly, Rural Physician Representative; Jacqueline Smith, Consumer Representative; Natalie Steffen, Commissioner of Human Services; William Peterson, AFL-CIO Representative; and Diane Wray-Williams, Consumer Representative.

Service Delivery: James Ehlen,\* Health Plan Representative; Linda Barton, Commissioner of Employee Relations; Gerald Brost, Provider Representative; Delores D'Aquila, Consumer Representative; Jasper Daube, Minnesota Medical Association Representative; Gretchen Musicant, Minnesota Nurses Association Representative; Bernard Reisberg, Employer Representative; and Judy Schaubach, Labor Union Representative.

Payment Systems: Peter Benner,\* AFL-CIO Representative; Joy Barbre, Minnesota Chamber of Commerce Representative; Virginia Greenman, Consumer Representative; George Halvorson, Minnesota Council of HMO's Representative; Bert McKasy, Commissioner of Commerce; Mary Miller, Insurance Federation of Minnesota Representative; Richard Niemiec, Blue Cross Blue Shield of Minnesota Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

PREFACE

The Minnesota Health Care Commission was established in the 1992 legislation known as "Health Right." The Minnesota Legislature charged the Commission with the responsibility to develop a cost containment plan that will slow the rate of growth in health care spending by at least ten percent a year for the next five years. This report contains a summary of the Minnesota Health Care Commission's cost containment plan. The plan was developed by consensus and this report was approved by the Commission without a dissenting vote.

The plan that is summarized in this report is not a detailed blueprint but a strategy and a series of first steps toward achieving cost containment goals. Many details remain to be worked out. If the plan is approved by the Legislature and the Governor, the Commission will resume its progress toward resolving the implementation details. The plan will also require continuous refinement as Minnesota accumulates better information and gains more experience. The plan is not the final answer but the beginning of a continuous process of improving the efficiency and quality of our health care system.

Early in its proceedings, the Commission adopted a policy that it would foster a spirit of openness to community involvement and participation. In the process of developing

this report, the Commission welcomed proposals from the greater community and developed a process for routing proposals to appropriate committees for consideration. The report contains numerous strategies and concepts that were suggested by persons and organizations other than Commission members. However, the publication of this report does not signal the end of opportunities for the greater community to participate. In the spirit of continuous improvement of the cost containment plan, the Commission welcomes comments and suggestions on this report, and will be holding a series of public hearings throughout the state. The Commission also encourages interested persons and organizations to submit written comments. The Commission will continue to improve its cost containment plan in response to comments and suggestions from the community.

INTRODUCTION

*The Minnesota Health Care Commission*

The Minnesota Health Care Commission was created by the 1992 Health Right Act. The Commission consists of 25 members representing health care providers, health plans, employers, unions, consumers and state agencies. Thirteen of the members are appointed by the Governor, two consumer representatives are appointed by the Legislature, and ten members are appointed by trade associations and other organizations.

*Cost containment plan*

The 1992 Health Right Act requires the Minnesota Health Care Commission to submit to the Legislature and the Governor a plan for slowing the growth in health care spending by at least ten percent a year for each of the next five years. During its first six months of existence, the Commission has devoted most of its time and effort responding to the statutory mandate to submit a cost containment plan to the Legislature and the Governor in January 1993. The Commission's statutory charge also includes broader issues relating to the access, quality, and affordability of health care in Minnesota. The Commission will turn to these broader issues during 1993 after the cost containment plan has been submitted and approved through legislation.

The cost containment plan was developed collaboratively by the stakeholders in the health care system through their representatives on the Commission and through openness to community involvement and participation. The plan includes both major, long-term structural change to the health care delivery and financing system and short-term targeted strategies.

The Commission took very seriously the statutory charge that the plan reduce the rate of growth in health care spending by at least ten percent a year for each of the next five years, and believes its plan moves as quickly as possible toward achieving this goal. The Commission estimates that Minnesotans will spend about \$150 to \$200 million less on health care in 1994 as a result of the cost containment plan. By the end of five years, the Commission estimates that Minnesotans will have saved a cumulative total of about \$6.9 billion. These estimates will be further refined in the coming months as more data is collected.

The Commission is committed to closely monitoring and evaluating the success of the plan in achieving cost containment goals. If at any time it appears that cost containment goals will not be realized, the Commission is committed to taking corrective action to keep Minnesota on target.

\*Chair.

*Minnesota's health care system: a tradition of excellence*

The Commission recognizes that Minnesota is a leading state in terms of the quality and efficiency of its health care system and the proportion of Minnesotans who have access to health coverage. The Commission is committed to ensuring that Minnesota continues to show leadership through continuous improvements in the health care system.

**ERISA**

The Commission recognizes the relevance of the federal ERISA (Employee Retirement Income Security Act) law to Minnesota's health care reform efforts. ERISA limits the ability of states to regulate the health benefits plans of employers, particularly large employers and group purchasers that "self-insure" their health benefit plans (they cover the entire cost of health coverage for their employees or enrolled members rather than purchasing insurance to cover these costs). The cost containment plan is designed to be attractive to self-insured purchasers and promote voluntary participation, thereby reducing the significance of the ERISA issue. Even though the Commission and its committees spent a great deal of time analyzing and discussing ERISA issues, they are not discussed in this report. Various state laws have been challenged on the basis that the laws were preempted by ERISA. The State of Minnesota has already faced one lawsuit and more challenges are likely. Because of the risk that public statements from a state entity assessing the ERISA impact of a particular proposal might ultimately be offered as evidence in a future legal challenge to the proposal, ERISA issues are not analyzed or discussed further in this report.

*Long-term care*

Long-term care costs are not presently included in the Commission's statutory charge. The Commission is aware of the substantial and growing expenditures associated with long-term care. Although long-term care is not a part of the overall cost containment plan, the Commission intends to monitor the costs and trends of long-term care along with other components of the system.

*The definition of "price"*

The word "price" is used throughout this report to mean the actual amount paid (after discounts or other adjustments) by the ultimate purchaser to buy health coverage and health care services. The word "price" is used in this manner to differentiate between health plans' costs of paying for health care services for insured individuals and the cost to the purchaser of buying coverage from a health plan.

*The definition of "health plan"*

The term "health plan" is used throughout this report to mean a company that sells health insurance or another form of health coverage. "Health plan" includes health insurance companies, health maintenance organizations (HMOs), nonprofit health service plans such as Blue Cross-Blue Shield, health carriers, and other organizations that are licensed by the state to offer health coverage.

**KEY FEATURES**

Under the cost containment plan, the Commissioner of Health will set an annual limit on the rate of growth in health care spending and will implement programs to achieve compliance with the limits. The plan includes health care reforms that will reduce costs and enhance quality through a more effective competitive marketplace. However,

the entire health care system will be subject to overall limits and regulatory controls that will prevent excessive increases in costs. The major features of the plan are:

**Integrated Service Networks:** The plan uses incentives to encourage the development of competing Integrated Service Networks (ISNs) that are accountable for the cost and quality of their services. ISNs will be responsible for providing the full array of health care services (from routine primary and preventive care to acute, inpatient hospital care) for a fixed price for the purchaser, thus creating incentives for the participating providers and health plans to become more efficient. The development of ISNs will also facilitate competition because the quality and price of the ISN "product" can be more easily compared than services provided in fragmented nonsystems of independent providers.

**Limits on growth:** The plan uses global limits to protect consumers from excessive growth in health care costs without micro-managing provider and health plan budgets. The Commissioner of Health will establish an annual limit on the rate of growth of all public and private health care spending for Minnesota residents that will ensure that the projected rate of growth will be reduced by at least ten percent a year for each of the next five years.

**Payment systems:** The global limits on growth will be enforced by the Commissioner of Health through payment system reforms. The limits will be enforced differently for ISN and non-ISN health care services. Each ISN will be subject only to an overall limit on growth. Non-ISN services will be regulated through an all-payer system (in which multiple payers and health plans use a single payment system) that will ensure that overall growth in expenditures for non-ISN services does not exceed the growth limits established by the state.

**A balance of competition and collaboration:** The plan uses incentives to prompt changes in the marketplace so that ISNs will begin competing with each other to provide better quality service at reduced prices to purchasers and consumers. Competition will be facilitated by the collection and distribution of comparative data on the price and quality of each ISN. In circumstances where competition is likely to produce inefficiency or excess capacity, the plan facilitates managed collaboration of providers and networks. Competition and collaboration are balanced to produce the best possible environment for Minnesota consumers.

**Purchasing reform:** Opportunities for small groups to join together through public and private pooling mechanisms will be enhanced and facilitated.

**Technology:** The Health Planning Advisory Committee will evaluate selected technologies for safety, efficacy, health outcomes, and cost effectiveness. The technology assessment will be used by providers, health plans, employers and other purchasers, consumers, and ISNs to make decisions about coverage and appropriate use of technology. Because ISNs are accountable for controlling their costs and are subject to limits on growth, they bear the risk if they do not make appropriate, cost-effective decisions about technology. It is anticipated that regulatory controls will be necessary to control the diffusion and use of technology in the regulated system for non-ISN services.

**Health care data systems:** Comprehensive, coordinated health care data systems will be established to collect, analyze, and disseminate data on quality, price, revenues and ex-

penditures. Information on health care spending will be used to establish growth limits and evaluate the success of cost containment strategies. Comparative data on ISN prices and quality will be widely distributed to inform consumers and purchases and encourage competition. Data on quality will also be used to evaluate and improve the quality of health care throughout the state. A resource center will be established through a collaborative public-private partnership to compile and disseminate information on health care costs and quality and provide related technical assistance to consumers, providers, employers, health plans, and other persons and organizations. The center will offer information and assistance relating to practice parameters, outcomes data and research, technology assessments, the prices and quality of ISNs, purchasing pools for small groups, consumer education, prevention strategies, and other initiatives.

**Practice parameters:** Practice parameters will be developed and approved to provide guidance to providers regarding the most effective methods of care and treatment. Providers who adhere to approved practice parameters will be protected from malpractice liability.

**Prevention:** Public and private prevention activities will be enhanced and expanded.

**Consumer education:** Consumer education programs will be established to empower and encourage consumers to make informed, wise choices about buying and using health care services and to encourage and motivate consumers to adopt healthy lifestyles that will reduce health care costs.

**Regional Coordinating Boards:** Regional Coordinating Boards will provide local input to the Commissioner of Health and the Commission regarding statewide cost containment programs and will serve as a local connection for statewide activities and a forum for local efforts to improve health care in each region.

**Public commitments of health plans and providers to voluntarily reduce growth in costs:** Health plans and providers will be challenged to make a public commitment to reduce the rate of growth of their costs and prices by at least ten percent. Health plans and providers who make the public commitment will submit trend projections and data that will be used to monitor and evaluate their success in meeting the targets. The names of participating providers and plans will be published and general information on their success in fulfilling the commitment will be distributed to employers, purchasers and other interested groups.

**Special projects with short-term cost savings:** In addition to the structural health care system reforms and major cost containment initiatives that will be implemented under the Commission's cost containment plan, a number of specific, targeted strategies that have the potential for short-term cost savings will be undertaken in areas such as reducing provider fraud, reducing health care advertising, improving immunization programs, reducing tobacco use and improving birth outcomes.

**COST CONTAINMENT PLAN**

*Overview of the cost containment plan*

The Commission's cost containment plan includes both long-term major restructuring of the health care system and initiatives to achieve short-term cost containment goals. The plan combines many different strategies into a comprehensive package. Under the plan, limits on growth in health care spending will be established and enforced by the Commissioner of Health to ensure that the

rate of growth is reduced by at least ten percent a year for each of the next five years. The plan encourages the formation of Integrated Service Networks which are integrated networks of providers and/or health plans that are fully accountable for providing the full continuum of health care services to their enrollees for a fixed dollar amount. Integrated Service Networks will compete on the basis of both cost and quality. Competition and Collaboration will be balanced to produce the best possible environment for health care consumers. Technology will be evaluated for effectiveness and value. Practice parameters will be developed and approved. Prevention and public health activities will be promoted and enhanced. Consumer education programs will be conducted. Health care data collection systems will be developed and implemented. Short-term cost containment strategies will be implemented. Health plans and providers will be challenged to make a public commitment to voluntarily reduce their own rates of growth.

Each component of the cost containment plan is summarized later in this report.

#### *Limits on growth*

The 1992 Health Right Act requires the Commissioner of Health to establish an annual limit on the rate of growth of total public and private health care spending in Minnesota. The limit must reduce the current rate of growth by at least ten percent a year for each of the next five years. Under the legislation and the Commission's plan, health care costs may continue to grow, but at slower rates than those now being forecast.

To set the limit on growth, the Commissioner must first forecast the rate of growth that would occur without any cost containment initiatives. Then the Commissioner will set a growth limit that will ensure that the actual rate of growth will be at least ten percent less than the forecasted increases that Minnesotans would otherwise experience. For example, if the Commissioner estimates that the amount Minnesotans spend on health care will increase by 10 percent from 1993 to 1994, the Commissioner must limit the actual rate of increase to 9 percent or less. This process is repeated each year for the next five years. Using the example of a 10 percent annual rate of increase, the annual rate of growth in costs would be reduced from 10 percent to 5.9 percent by 1998.

Based on preliminary estimates of total spending and assuming a hypothetical rate of increase of 10 percent a year, the implementation of the spending limits and the cost containment plan will mean Minnesotans will spend from \$150 to \$200 million less on health care in 1994 and by 1998 will have saved a cumulative total of \$6.9 billion dollars. Estimates of total spending and growth rates will be refined in the coming months.

The 1992 Health Right Act requires the Commissioner of Health to use 1991 as the base year for estimating total spending and rates of spending growth. Using 1991 as the base year helps to ensure that the base level of total health care spending is not artificially inflated by individual providers or health plans who increase their rates during 1992 and 1993 in order to anticipate or offset limits that will be established for 1994. Artificial inflation or padding of costs or prices will be monitored and addressed through adjustments to the base year spending totals or future spending limits or through other methods to be developed by the Commission in the coming months.

#### *Data collection strategy*

A data collection strategy was adopted by the Commission early in its deliberations to

collect the best figures possible in 1991 health care spending to meet the January 1993 deadline for submitting a report to the Legislature. The strategy involves working directly with the major payer groups (health insurance companies, HMOs, Blue Cross-Blue Shield, large employers, and government programs) to determine the growth rate in health spending between 1990 and 1991. This strategy will capture spending on personal health care services for approximately 60-70 percent of covered individuals in the state.

More detailed information will be needed from both the provider and payer groups. As more data becomes available, the state will be able to more closely monitor Minnesota health care spending and adherence to the spending limits. The Commission will collect data from providers beginning in July 1, 1993. This data will be used along with the data from payers to track total health expenditures in the State of Minnesota. The two levels of data will be used to document revenues and expenditures and to cross check the data provided by each method.

The data collection strategy is described in more detail in the section on Spending Data and Trend Projections.

#### *1994: The first year of spending limits*

The inadequacy of existing data on health care spending handicaps the short-term implementation of the cost containment plan. The Commissioner of Health and the Commission are implementing a comprehensive, statewide data collection initiative that will allow Minnesota to begin collecting detailed data on spending in January 1994. For the time period before this, the Commission must rely upon aggregate figures and estimates which cannot serve as the basis for enforcement or regulatory action against individual providers or health plans. For this reason, the Commission's plan contemplates that calendar year 1994 will be the first full year that is subject to a limit on the rate of spending growth.

#### *Responsibility for implementing the plan*

Most components of the cost containment plan will be implemented by the Commissioner of Health. As envisioned by the 1992 Health Right Act, the Commission will provide extensive and detailed recommendations to the Commissioner and closely monitor implementation by the Commissioner. The 1992 Health Right Act requires the Commissioner of Health to submit a report and explanation to the Legislature any time the Commissioner departs from a recommendation of the Commission.

#### CONCLUSION

The Commission's cost containment plan is an important step in a continuous process of improving the Minnesota health care system. A great deal of work lies ahead, including adding more detail to the plan, the drafting and enactment of legislation, state agency rulemaking, implementation of the various components of the plan, and ongoing monitoring, evaluation, and refinement of the plan's initiatives. These activities will be undertaken collaboratively in an open process that maximizes opportunities for input from all interested persons and organizations.

While the focus of this report is on cost containment, the Commission soon will be expanding its activities to encompass broader issues such as health care quality, access to health care services, rural health care, and long-term care. Because of the commitment and enthusiasm that has been shown by Commission members and because of the success of the Commission in achieving a

consensus on significant, comprehensive health care reform, the Commission is highly optimistic about the future of Minnesota's excellent health care system. The coming years will bring continuous improvements and enhancements in the quality, accessibility and affordability of health care in Minnesota.

#### THE PERSONAL RESPONSIBILITY FOR HEALTH COSTS

With amazing speed and harmony, the Minnesota Health Care Commission has produced for legislative consumption a comprehensive strategy for saving a whopping \$6.9 billion in health-care costs in the state over the next five years. It contains many commendable features.

Less commendable are early signals from legislators about which parts of the Commission's work they find problematic.

Controversy might be expected to surround the proposal's call for a large-scale experiment in paying for health services through "integrated service networks" that will both collaborate and compete with one another. Promising as that approach sounds, it's still a march into uncertain territory. A full airing is warranted of critics' claims that such "managed competition" concentrates too much on cost savings in patient care, while not doing enough to force more efficiency from insurers and health-care administrators.

But that's not what has legislators stirred up. Rather, it's the commission's endorsement of measures whose ability to improve the health and longevity of Minnesotans is much less in doubt—measures aimed at getting people to quit smoking, drink less alcohol, buckle seat belts, and wear a helmet when they ride a motorcycle or snowmobile. Legislators are dusting off all the old arguments about the state trampling on personal freedom, about government's heavy hand reaching too far into private behavior.

The commission's report should put those tired lines to permanent rest. Excessive smoking or drinking, driving without a seat belt or motorcycling without a helmet isn't just private behavior. Those things are significant contributors to a major societal problem, runaway health-care costs.

Like many of the ills facing America, the crisis in health-care financing doesn't lend itself to resolution by one knight on a white horse, or in a White House. Many individuals must make changes if health-care costs are to come down, and Americans are to live healthier, longer lives. At a time when a new president is calling Americans to greater individual responsibility for the common good, it would be fitting for the Legislature to call Minnesotans to greater personal responsibility for their own health.●

#### ROBERT SAMUELSON ON FEDERALISM

● Mr. DURENBERGER. Mr. President, I would also like to draw the attention of my colleagues to an important article published in the Washington Post op-ed page by Robert Samuelson. I ask that the article be included in the RECORD at the conclusion of my remarks.

At a time when the President, Mrs. Clinton, the U.S. Congress, and numerous private citizens are tackling a fundamental overhaul of U.S. health care, nothing could be more important than

establishing a clarity of national purpose.

If we want to succeed in health care reform—just as in any other field of endeavor—we have to start with a clear idea of what we are trying to accomplish, and which actor is best suited to which task.

Today's article by Robert Samuelson reminds us that the trend of the last 50 years has been from a positive aversion to any Federal role in solving problems to an absolute overreliance on Federal intervention.

We need to be much more attentive to the question of which level of government, and which private actors, are best suited to play which particular roles in health care. For much too long, this debate has been sidetracked into clichéd partisan talking points—"Democrats want more government, Republicans want less."

It is much more complicated than that. We need to decide who does what best. I would argue that providing income security for low-income Americans in health care is a legitimate national purpose—and also that this is a properly Federal task. The Federal Government ought to subsidize coverage for the uninsured.

But to ask the Federal Government to run the complex and massive U.S. health care system would once again trap the Federal Government in a role for which it is unsuited. This would court disaster—and lead to certain disappointment for the hopes we all share about health care reform.

Let us divide up the task of health care so that each actor—the Federal Government, the States, doctors and consumers—does what it does best, and is held accountable for the results.

This ought to be the goal of any successful health care reform package.

The material follows:

[From the Washington Post, Jan. 27, 1993]

#### OUR LOVE-HATE RELATIONSHIP WITH GOVERNMENT

(By Robert J. Samuelson)

Broadly speaking, President Clinton's nemesis is the modern welfare state. By welfare state, I mean something beyond the usual narrow concept: government as helper of the poor. The modern welfare state differs radically from that. It touches all of us, providing us with benefits of various types and claiming a huge part of our incomes. It creates a vast web of dependency on government that is the ultimate source of huge budget deficits and, quite perversely, distrust of government.

The generational change of which Clinton spoke in his inaugural address could well be this transformation of government. In 1955, when Clinton was 9, defense spending accounted for 62 percent of federal outlays and "human resource" spending for only 22 percent. Of that, veterans' benefits were a third and Social Security an additional third. By 1992, the proportions had almost reversed: 56 percent for human resources, 22 percent for defense. In the intervening years, we created Medicare, Medicaid, food stamps, federal college loans and much more.

No president has successfully grappled with the political consequences of this upheaval. Becoming responsible for the welfare of the many, government also incurs the wrath of the many. Consider how government has become central to our lives. In 1990, 34 million of us qualified for Medicare, 1.7 million got farm subsidies and 22 million received food stamps. Millions benefit from tax breaks: interest deductions on home mortgages, the tax-exempt status of health insurance and other fringe benefits.

But while government earns our gratitude, it also stirs our resentment. Dependency creates a backlash. We detest the limitations, the conditions, the paperwork, the hassles and the occasional humiliations that accompany our benefits. We fear that benefits may be cut or modified. Even when they seem safe, we resist higher taxes to pay for other people's "unworthy" benefits. Paradoxically, government's very generosity helps make it unpopular. Government does so much for so many that anyone can find something that seems wrong or unneeded. My benefit is a public-spirited necessity; yours is ill-conceived waste.

What makes these conflicts so unmanageable is that we have no public philosophy by which to judge government. By public philosophy, I mean widely shared beliefs about what government should—and should not—do. This crippling deficiency dates to the Great Depression, when economic collapse gave rise to a new concept of government. The general idea was (and is) that government should act to protect people against the defects, instabilities and hardships of private markets. The trouble was that this new concept of government is utterly open-ended.

To justify government support only requires a showing—strong enough to convince Congress—that a "problem" exists that government might ameliorate. We gradually moved from an era when people were loath to use government for almost anything to an era (today) when people use government for almost everything. In 1929, federal spending was only 2.8 percent of the economy's output. Now, it is 24 percent. Our welfare state aids the old, supports scientific research, subsidizes art and runs a railroad. We undertook these commitments in part, because we assumed, in the 1960s and 1970s, that they could be easily financed with the taxes generated by rapid economic growth.

In an arithmetic sense, the budget deficits result from our over-optimistic economic assumptions and a loose concept of government. We simply borrowed to pay for bigger government, because the tax burden has actually remained stable. (In 1968, federal taxes equaled 18.1 percent of the economy's output; in 1992, the ratio was 18.6 percent.) But in a larger sense, the deficits stem from an inadequate public philosophy. We lack the popular consensus that would enable the political process to cut some spending programs—because they're not deemed worthy of government support—and raise taxes to cover the rest.

There is a huge dilemma here. To close the deficits risks public anger and cynicism, because the president and Congress would break past commitments. But to let the deficits languish also arouses public cynicism, because government seems incapable of governing. We do not want the status quo disturbed, even though we find the status quo disturbing. Whether Clinton can overcome this dilemma will measure his political skills. By words or deeds, he needs to create clearer boundaries between governmental

and private responsibilities. The problems of the health care system, incidentally, involve the same basic questions.

As yet, Clinton has no workable public philosophy. He talks of "change," "sacrifice" and "responsibility," but the details that would give these words meaning are missing. Inconsistencies abound. He pledges to cut budget deficits but plugs new programs that seem unrelated to critical national needs. His plan for "national service" (allowing students to repay college loans with two years of community service) could cost, if fully funded, at least \$13 billion annually. Bruce Chapman, former Census Bureau director, recently wrote in *The Washington Post*.

If Clinton persists, he will perpetuate a tradition of bipartisan timidity. Ronald Reagan attacked Big Government in the abstract without actively campaigning to curb programs he thought unneeded. George Bush believed the issues so sensitive that they could be handled only in quiet bargaining between the White House and Congress—which meant that not much got done. The deadlock is not between Democrats and Republicans so much as between politicians and the public. Easy escapes don't exist. In fiscal 1993, the projected deficit (\$327 billion) exceeds all defense spending (\$289 billion). Any tax increase that raises major money must hit the broad middle class.

Sooner or later, we need to come to terms with the welfare state. We need more rigorous standards for judging whose welfare is being advanced, and why. As it is now, the welfare state is too big and intertwined in our social fabric for conservatives to dismantle. But is too expensive and unpopular for liberals to expand endlessly. The irony is that the welfare state arose in the 1930s as an antidote to the insecurities of free markets. More than 50 years later, it has itself become a wellspring of anxiety and contention.

#### DESIGNING AN INFRASTRUCTURE FOR HEALTH REFORM

(By Dave Durenberger, U.S. Senator for Minnesota)

#### INTRODUCTION

Health care reform is now clearly on the national agenda. There has been a great deal of debate about health care among politicians, policy analysts, interest groups and the general public. As a result, reform plans have proliferated, offering a wide variety of proposed solutions. The discussion and analysis these plans have generated helped educate all of us on the complexities of the health care system in the United States.

A consensus appears to be emerging out of the debate; a consensus that crosses lines of ideology and party. There is agreement that we must provide universal access to superior quality, cost-effective care through universal coverage of financial risk. Despite disputes about details, there is also a growing consensus that both the public sector and the private sector will play important roles in any reform plan.

The term "managed competition" is gaining currency as a way to describe the new consensus. Coined by the Jackson Hole group in which I have had the opportunity to participate, managed competition embodies the notion that the marketplace should provide the competition and the government the management—a true public-private partnership.

As the health care reform consensus evolves and solidifies, we will have to resolve critical details of financing, budgets, and so forth. We have plans aplenty that are full of options. I recognize that we will have to

make difficult trade-offs in order to hammer out an agreement on a reform plan.

In my view, however, there is a crucial missing element in the present plans that must be addressed. All of the plans ignore or minimize basic issues of infrastructure. Regardless of how we ultimately resolve the details, it is essential that issues of infrastructure be recognized.

Infrastructure refers to the institutional foundations that are critical to maintain an organization, system or community, and support its evolution and change. Infrastructure is critical to health care at several levels—in the public sector, in the private sector, and where the two intersect. Structural change cannot simply be mandated; we need to institutionalize a process to facilitate and promote change.

Infrastructure reform would not be pivotal if we were simply going to replace the market with regulation. But, building a capable infrastructure is essential if we are to have a truly competitive market and a government able to manage that market.

If we are to reach our stated goal—universal access to superior quality, cost-effective care through universal coverage of financial risk—our health care system must become more productive. Productivity simply means that we get better access to quality care for fewer health care dollars.

Productivity is an enormous challenge and requires behavioral changes by all the actors in the private sector—consumers, providers, insurers, employers. It also requires that governments, federal, local and state, become more productive as well.

Making government more productive requires bold action. We need a strong commitment to question fundamental relationships between levels of government and with the private sector. This paper lays the foundation for infrastructure reform so that we can meet this challenge.

I want to stress that this report is not another health plan. This paper articulates why a change in the public and private infrastructure is essential to accomplishing enduring health reform. It sets forth the principles that will guide our infrastructure reform, provides a context for understanding the present problems, and points the way toward building better institutions for meaningful and long-lasting change.

#### CHAPTER I. PRINCIPLES FOR REFORM

In order to reform our infrastructure, we must return to basic principles of government.

First, we must begin with a new definition of health. Without this we will never sort out the responsibilities of all the participants in the health care system. Health includes three components: public health, medicine and long term care.

#### *Redefining Health*

By public health, I mean disease prevention, health promotion, the elimination of social problems that reduce physical well-being. These include personal safety, adequate food and housing, a clean environment, occupational health and safety. Viewed from this perspective, we confront issues of health in the headlines of our newspapers every day. We will not be able to grapple with our medical care system until and unless we address our public health problems.

Medicine applies to acute care services. Our public health failures have overburdened our medical care system. For example, lack of prenatal care and substance abuse produces low-birth weight, premature infants.

Smoking is the single most preventable cause of death and disease in our country. Too many reform plans try to expand access medicine without confronting the underlying public health problems.

Long term care deals with chronic conditions, the aging process, and gradual loss of function. It is the successes of our acute care services that have presented us with the challenge of an expanding aging population. Many of the needs of the elderly do not require medicine, but do require nurturing, housing and living assistance. Our current financing and medical care systems either ignore these needs or price them beyond the capacity of most individuals in need.

Government has become deeply involved in all three components of health. But we have no clear delineation of the health and medical care responsibilities among levels of government, the private sector and individuals. Without clear-cut responsibilities, we lose the ability to hold decision makers accountable for results.

#### *Returning to Principles of Federalism*

Intergovernmental relations are key to rationalizing our system of health care financing and delivery. The existing public infrastructure is dysfunctional. We have overlapping, duplicative, and inconsistent policies emanating from the states and the federal government. It has taken years for this ad hoc, complicated, interrelated system to develop.

It is essential that we untangle these relationships. A new house cannot be built without careful attention to the foundation. The foundation begins with the fundamental principles of federalism.

The United States is a nation of dual sovereignty, shared between the national government and the states. Although the Supreme Court has broadly interpreted federal power under the Constitution, it is the responsibility of Congress to use federal power sparingly but effectively. I have written and spoken widely about the principles of federalism which can help us determine when federal intervention is appropriate, and when authority should be left to the states.

The federal government can secure individual rights, promote economic growth, intervene where states cannot be effective or efficient acting alone, or when costs among states must be equalized. The federal government also can provide for the income security of all Americans.

I have a preference for state and local government unless there are clear reasons why the federal government is the appropriate level to undertake any given task.

#### *Role of the Federal Government*

In relation to health care, there are several key roles for the federal government to play. Its principal role must be the guarantor of income security for all citizens. Only the federal government has the resources to ensure that every American has protection when catastrophic illness strikes. The states do not have the resources to guarantee equitable access for all. Unfortunately, the federal government has not undertaken this responsibility to date. Many states are laboring mightily to fill an economic void without adequate resources to do so.

The federal government must also play a role in other areas where national policy is needed. We need a national manpower policy to equalize resources among states and redeploy them in underserved areas, both rural and urban. We need to continue our strong federal biomedical research activities and greatly expand our capacity to evaluate

medical procedures and products at the national level.

#### *Role of State Government*

There are institutional reasons why states must play very different roles. States are unique. Every state has an individual set of circumstances, populations, geography, and infrastructure. States understand these differences and will be more responsive to them than will the federal government.

The primary role of state governments in health care should be to provide for the public health of their citizens. If states were freed from the burdens of acute care financing for low-income populations, they could develop programs for health care delivery systems and public health services. States can also design incentives for strengthening the family, neighborhood, community, and the workplace. States can also support local governments which are the constitutional creatures of the state, to help them foster and reward good health in every community.

#### *Understanding the Market*

Once we untangle the intergovernmental inefficiencies, we will be ready to address the appropriate role of government in relationship to the private sector. Again, we must return to basic principles to help guide our understanding of the private marketplace and of private-public interaction.

The private sector refers to the action of individual people as well as the groupings that individuals form, including families, workplaces and institutions, that provide for and pay for their health care.

I have a preference for private sector decision making that is based on the fundamentals of our political economy—competitiveness, capitalism and pluralism. Functioning markets lead to productivity, innovation, and efficiency.

I have identified five key factors in the health care marketplace—four of which are private sector, and the fifth is government. The private sector actors include providers, insurers, employers, and consumers. We must involve all the actors in system redesign without allowing them the power to obstruct the flow of change.

The core of any functioning marketplace in health care is consumer choice. Consumer choice, appropriately informed and financed, guarantees producer competition.

However, not all markets work perfectly. Where market failures exist, there is a role for government intervention in some form. Examples include antitrust laws, consumer protection, and environmental regulations, to name a few. The nature of the intervention must depend upon the unique characteristics of the marketplace and the social goals we seek to obtain.

Perverse incentives have created serious infrastructure problems. We have significant problems of overcapacity and misallocations of resources. We have too many hospital beds, too much high tech equipment, and too many specialists. Amidst this oversupply, we have many areas and populations that are seriously underserved.

We cannot build a reformed system without addressing overcapacity. Supply-induced demand will overwhelm efforts to control costs and manage utilization. The marketplace cannot do it alone. Unsupervised, the market will win every time.

#### *Designing Public-Private Partnerships*

Despite these failures, I believe that the marketplace can be managed and should not be replaced by regulation. In relation to health reform, the goal of access to superior quality services can best be achieved by a

healthy public/private sector cooperation. Competition produces productivity, which is essential to cost-efficient, innovative care. Government should design incentives to manage competition to prevent market failure. In short, government must act as a facilitator of the marketplace.

Pluralists recognize that interest groups provide value in the effective functioning of government. Any sustainable reform plan must allow the major interest groups to survive and thrive. Any paradigm that benefits some stakeholders at the expense of others cannot be accepted as part of the long-term design.

Creating true public-private partnership will be a real challenge. We will need to build successful entities that combine the accountability and stability of government with the flexibility, efficiency, and creativity that characterize the private sector. These new institutions will provide the process for behavioral changes in how we deliver and in how we utilize health care. These institutions must embody new thinking about the role of government, guided by principles of federalism and the need for public-private cooperation.

There appears to be a fair degree of skepticism about whether the government can address market failures successfully. That skepticism is well-founded. Government bureaucracy can be slow, inefficient, unresponsive, and frustrating to deal with. Unless we redesign government institutions, we cannot improve government's capability to manage the competitive environment.

#### *Redesigning the Federal Bureaucracy*

The redesign of government institutions must clearly delineate between the federal government and the states as well as relations with the private sector. In our new system, the federal government will become the arbiter of federal-state relations, a facilitator of market reform and competitive activities, and a central repository of biomedical research and evaluation activities.

In short, the federal government must facilitate, not regulate. If we are going to have successful managed competition, we must focus on the institutions in government that will provide that management. Government must help restructure the private market without destroying it.

These new roles require new characteristics in the institutions of government:

Partnership with the private sector means we must abandon adversarial relationships and work toward models that enhance cooperation.

Government institutions must be both stable and responsive. Health care in America is dynamic and constantly evolving. We need a federal bureaucracy in place that can respond, flexibly and creatively to changing demographics, innovations, resources, and values.

Branches and divisions within the federal bureaucracy must communicate across functional lines. We have finally learned that health care is not a single enterprise, it requires policy coordination to work effectively.

State and local governments must also foster productivity and cooperate with relevant and related federal agencies.

These new institutions must embody the best of both worlds. From the public sector—accountability and stability; and from the private sector—efficiency, flexibility, and responsiveness. Only then will the new bureaucracy accurately reflect a revitalized federalism, promote a public/private partnership, and respond to the needs of states, communities, and individuals.

Chapter II presents additional details on my swap proposal that would realign federal and state infrastructure and income support for medical assistance.

Chapter III lays out a new federal infrastructure that will promote health care reform and enhance federal leadership in those areas which can be uniquely supported through new federal institutions.

#### CHAPTER II. STATE FUNCTIONS

Health care reform is likely to put increased responsibility on states, no matter what plan ultimately emerges. States are in a unique position to understand their populations, the nature and demands of their private sector, and the need for enhanced delivery systems.

States are currently reeling from a legacy of federal mandates, reductions in financial assistance, and declining state revenues. If states are to assume an enhanced role in promoting access to health care, they must be given clear authority and financial stability to accomplish these responsibilities.

The first step in state health care reform is a fundamental shift in responsibility between the federal and state governments. Based upon the principles of federalism, we will better define and delineate state responsibilities and will provide states adequate financial and administrative flexibility to accomplish its goals.

There are four critical state functions. States will: 1) support the public health infrastructure and delivery systems, 2) design health care systems for low income individuals, 3) coordinate health insurance buying programs to create managed competition for the business sector, and 4) become laboratories for experimentation in productivity and evaluation.

#### *Medicaid Restructuring*

Although certain reforms in the insurance market will likely reduce the number of persons who are currently uninsured, there will continue to be a group of low income individuals who will require financial assistance to procure health care services. A significant portion of this low income population is currently covered by Medicaid, a program which is fundamentally flawed in several ways:

Medicaid covers only certain low-income individuals because it is linked to other cash assistance programs.

Medicaid varies in eligibility, scope and duration of services from state to state.

Medicaid does not insure access to private providers and contains disincentives which result in the use of more costly emergency room and hospital care.

Medicaid bears a disproportionate share of spending on long term care and nursing home care.

Medicaid costs are rising rapidly, representing the single largest item in state budgets.

In order to overcome these fundamental problems, the Medicaid program should be redesigned to become a national income-based eligibility program that is consistent across states and provides a flexible system that allows low income individuals to have access to medical care.

The new health access program for low income individuals will shift financial responsibility to the federal government and give administrative flexibility to the states. It will also break the categorical linkage between public assistance and Medicaid eligibility by making income the sole criteria for eligibility.

I am proposing that states receive an annual capitation grant based on the number of

low income individuals in the state, as defined by national income eligibility standards. The federal government will establish a uniform national eligibility level based on a given percentage of the national poverty level. This level can be phased up as resources become available.

The federal government will also establish a health care benefit package including basic medical care services and preventive and primary care. Benefits will be equitable across states and could be phased beyond a standard minimum benefit package over time. States will have the option to either enroll eligible individuals into health insurance plans or to provide vouchers directly to individuals to purchase health insurance.

The new program will make the public provision of health care benefits more uniform nationally, in eligibility and the range of available benefits, and will emphasize the provision of primary and preventive care. The use of capitation will promote more efficient delivery of medical care through case management and capitated financing arrangements and should serve to reduce in appropriate use of emergency rooms, hospitalizations, and high technology medicine.

#### *Long Term Care*

The need for long term care is a growing part of the health care continuum. Although Medicaid is the single largest supporter of long term care services, the current system suffers from many of the problems that exist in the acute care portion of Medicaid. Many of the services provided under Medicaid are for personal care and social services, benefits that may be provided more effectively outside of the medical care system. State flexibility to serve this population is restricted, however, by a myriad of government mandates and regulations.

As with acute care, states must be given financial and administrative flexibility to create a continuum of care for the long term care populations. The federal government must create incentives for states to develop cost-effective programs that are tailored to their population needs, and that build upon social as well as medical systems of care.

One way to achieve this goal is to capitate the federal contribution for long term care to states based on the number of eligible individuals in each state. Under this approach, states will retain responsibility for the remaining long term care costs using their current contribution to Medicaid long term care and their increased flexibility to use other public and private programs.

I believe a capitated approach has several advantages. Prospectively determined federal funding will control total program costs. States will have the flexibility to develop a program of continuing care services within a known amount of resources.

This approach will also create stronger incentives for states to provide cost-effective systems of care for their eligible population. It will allow states to tap existing programs that now separately serve the continuing care population, such as Title XX and the Older Americans Act.

#### *State Public Health Infrastructure*

While the federal government has been establishing mandates on states for low income medical care, they have been creating a multitude of federal categorical programs to address specific health and social service needs. These programs are categorized by different distribution formulas, application processes, and program requirements.

In addition, the federal government has been segmenting the financing stream by

sending some funds to states, some to counties and cities, and some to individual grantees. The result is a patchwork infrastructure that consists of costly programs that are not always comprehensive and are often unresponsive to individual needs.

To resolve this myriad of program requirements and bureaucratic detail, I believe it is critical to shift responsibility for the public health infrastructure to states. By swapping financial responsibility for income security to the federal government, states are in a stronger position to assume responsibility for selected health and social service programs.

The goal of this "swap" is to turn over the support of the public health infrastructure to the states. States, freed from the burdens of Medicaid financing, will have the resources to build this structure. The swap will increase the flexibility of state government, allowing funds to be targeted more efficiently and effectively to vulnerable populations. The restructuring will also eliminate detailed program rules and regulations to allow better targeting to meet the rapidly changing needs of various populations.

Under this approach, states will assume responsibility for establishing and maintaining the public health and social service infrastructure for their state, counties, and localities. States will assume responsibility for identifying underserved areas and for assuring access to medical care through community and migrant health centers, drug treatment, mental health services, family planning clinics, etc. States will have the flexibility to combine streams of funding and to locate or collocate services in appropriate settings to meet the needs of each state.

A set of criteria will be developed to select programs for the swap. For example, programs that currently support state activities will receive the highest priority. Programs that address problems that affect every state, and that are cost-effective, community-based prevention interventions such as childhood immunization, lead poisoning prevention, and breast and cervical cancer screening, will also be included. Programs that target underserved areas such as community health centers and the National Health Service Corps loan repayment program could also be turned over to states because they are better able to identify underserved areas and distribute resources within the state.

Programs that are not evenly distributed across states such as demonstrations, or programs that address national goals such as health professions training, will be retained as a federal responsibility.

To assure that states meet their obligations to support public health and social service programs, states will be measured against a series of outcome measures, such as the Year 2000 objectives for the nation. An incentive system will serve to reward or discipline states that were successful or unable to meet their goals.

This proposal is based on a series of assumptions about the willingness and ability of states to respond to increased flexibility and responsibility. States must be able to identify appropriate priorities and to address the needs of both rural and urban areas of their state. Different components of states, including the health department, financing, and maternal and child health departments must be able to work together and be willing to designate to local areas the authority to design and administer local programs.

#### *Health Insurance Market Reform*

The insurance market for small groups presents the biggest failure of the private in-

surance market. Small business pays the highest premiums, and is subject to the most aggressive underwriting of any segment of the private employer marketplace.

In the Jackson Hole model, the federal government will take charge of certain market reforms, including a federally determined basic benefit package with a commission to update the package, tax subsidies set at the level of the lowest cost plan in the region, national underwriting reforms to restore equity, and administrative support for data analysis for the states.

States will continue to oversee insurance markets, as they have traditionally done. A significant new role for states will be the coordination of Health Insurance Purchasing Cooperatives (HIPCs). States will be responsible for establishing and facilitating cooperatives that will purchase and manage large blocks of insurance for small businesses. By creating managed competition among insurance providers, states will assist small businesses and their employees to obtain lower premiums. States will act as facilitators to ensure that the marketplace serves all clients, not just large businesses.

#### CHAPTER III. FEDERAL FUNCTIONS

In order to lead the way in facilitating health care reform, we must restructure the federal bureaucracy. It must reflect the appropriate role of government and be adaptable to an emerging new health care system.

The first step is to raise the visibility and streamline the functions of government by creating a new Department of Health. The Department of Health will be a cabinet level Department within the Executive Branch, administered by the Secretary of Health. The Department will consolidate all components of health and medical care that contribute to the implementation of health care reform.

The structure of the Department will be based on an academic "campus" model with five centers which are policy hubs for critical aspects of the health care system. This model will require interaction across centers, each of which will be responsible for research, evaluation, and policy development. It will also be designed to enhance public-private collaboration.

In order to facilitate decision making and effective reform, the Department will be advised by an independent Health Reform Board. This Board will also advise the President and the Congress on all aspects of health reform.

#### *Health Reform Board*

Cost containment strategies can be expected to become an integral part of any health care reform proposal. However, cost containment efforts to date have fallen far short of establishing and meeting specific goals.

In order to provide an independent group of experts to establish policies on cost containment strategies, a Health Reform Board will be established as an independent advisor to the Secretary of Health, the President and the Congress.

Although what I am proposing appears radical, I believe it is necessary to break the deadlock on health care reform and move forward. Cost containment will be a critical part of any reform plan, but the strategy must be based on consensus development and sound information. We cannot afford to spin our wheels arguing around the margins. We know what we have to do and we must move ahead. I believe the model proposed here will be an effective vehicle for defining our cost containment goals and designing an effective

strategy that all sectors of the health care marketplace can embrace.

I believe that we should establish a group based on the successful model of the Commission on Base Realignment and Closure created by Congress in 1988 and modified in 1990. Congress created the Commission after several legislative efforts failed to close major military bases. The Commission was directed to make recommendations to Congress and the Secretary of Defense on base closures and realignments.

The federal government will face the same types of political and policy opposition to critical cost containment strategies as we faced in base closures. In order to create a dynamic, effective mechanism for establishing cost control principles, a Health Reform Board will be necessary to provide the Secretary, the President and Congress with innovative, effective cost control strategies independent of politics.

Similar to the Base Closure model, the Health Reform Board will be composed of members appointed by the President, with the advice and consent of the Senate. Based upon the successful models of the Physician Payment and the Prospective Payment Commissions, the membership of the Board will include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, medical effectiveness, and other related fields. They will be appointed on the basis of their talents, not solely by affiliation with an interest group.

The Board will develop an annual agenda of cost containment issues and will make this agenda available to the Secretary of Health, the President and the Congress. The Department of Health will be responsible for generating information to address the cost containment agenda, but it will be up to the Board to develop annual recommendations to meet health care cost containment goals.

The Board will hold hearings on the findings and conclusions of the Department and will prepare a report to the President on them. The President will transmit to the Congress a report containing the President's approval or disapproval of the Board's recommendations. The Secretary of Health will be obligated to implement the final recommendations unless Congress disapproves them within 45 days of receipt of the report from the President.

I believe this approach will allow us to receive sound advice on effective cost containment strategies that reflect the views of the public and private sector. It will allow the Department of Health, the President, and the Congress to review annually the proposals for cost containment, but it will expedite decision making so we can stop spinning our wheels. There will be some bitter pills to swallow, but at least we can help the medicine go down smoothly through this type of approach.

#### *Centers*

The new Department will be based on those functions that government does best, and be structured to promote information generation and policy formulation. The new Department of Health will consist of five centers: Biomedical Research, Medical Evaluation, Health Resources, Income Security, and Market Reform.

Each center will be administered by a Director, appointed by the President, and confirmed by the Senate. Each center will include an Office of Policy to advise the Director and to provide internal oversight, and will act as the principal liaison with the other centers.

Center for Biomedical Research: The federal government has a proven record in biomedical research and this function should continue to be supported in the new Department of Health. Under this new structure, we will create a continuum of information generation through basic and applied research, and link this to information dissemination.

To accomplish these goals, the Center for Biomedical Research (CBR) will support biomedical research and training, health information, and other programs with respect to the prevention, diagnosis, and treatment of diseases that affect human health.

The Center will assume the responsibilities of the National Institutes of Health, as well as the research programs of CDC. The Center will be responsible for basic, applied and developmental research and training through intramural and extramural activities. The Center will also retain responsibility for information dissemination about research findings.

In order to form a continuum leading from research to effective medical practice, the Center will forge a close linkage with the Center for Medical Evaluation (CME). An annual agenda for medical effectiveness information will be developed jointly by CBR and CME to effectively link new biomedical research information with medical practice. Large scale clinical trials, for example, could be supported on new or existing technologies jointly by CBR and CME.

Center for Medical Evaluation: I believe we must make an investment in medical evaluation commensurate with our investment in biomedical research and medical care delivery. We must also break down the artificial barriers between research, development, regulation and evaluation. We must also get better at using medical evaluation to support our health care reform and cost containment strategies.

The Center for Medical Evaluation (CME) will support research and evaluation on medical effectiveness through technology assessment, consensus development, outcomes research, practice guidelines and other appropriate activities. The Center will also support research and evaluation and will develop policy guidance on coverage for medical care services, long term care and chronic care, medical liability and on cost containment strategies.

The Center will assume the responsibilities of the Agency for Health Care Policy and Research (AHCPR), the Drug, Device, and Biotechnology Regulation (formally FDA, with food regulation consolidated in the Department of Agriculture), the National Center for Health Statistics (NCHS), the Office of Medical Applications of Research (OMAR), and the HCFA Office of Research and Demonstrations (ORD).

The goal of this center is to help develop a health care system that is based upon the best knowledge available on the effectiveness of health care services. This information will be critical to defining and updating a minimum benefit package, for example. It will also be important for developing effective cost containment strategies based on knowledge about appropriate utilization of medical services.

Center for Health Resources: Although my swap proposal would transfer public health infrastructure functions to the states, there will continue to be a federal role in manpower development and disease surveillance. There will also be a critical need to establish a strong liaison with states to facilitate their capabilities in public health.

The Center for Health Resources (CHR) will implement the new public health swap

in partnership with the states. Functions previously supported by HRSA, CDC, and ADAMHA will be included in the Center. Although the majority of the health service delivery system will be managed by the states, the Center will be responsible for conducting demonstrations of innovative delivery systems, or demonstrations of services to special populations. CHR will also coordinate with state governments to help set public health goals and insure that the goals are met.

The Center will also assume responsibility for health manpower development through grants, stipends, and payment policies. The Center will work closely with health professions schools and health care providers to reduce disincentives to primary care through school curricula, payment policy and financial assistance. The Center will maintain a data base on health professions to assure an appropriate supply and distribution of providers and will develop targets for primary care and specialty training.

Center for Income Security: Any form of health care reform will have to tackle our entitlement programs, including Medicare and Medicaid. Although the final form of these programs is still to evolve, it is clear that the federal government should no longer be in the business of micromanaging the delivery of care to low income and elderly persons. The federal government will pay the premiums to the qualified health plans, either directly or through states.

Clearly the first step is the reform of Medicaid to a capitated national system run by states. We must also begin the transition to restructuring Medicare to create a program that allows elderly individuals to buy the same medical care insurance at 65 as they did at 64. We must also create stronger incentives to support cost-effective managed care.

To set the stage for entitlement reform, the Center for Income Security (CIS) will have the responsibility for providing financial assistance to eligible individuals including those with low income, the elderly, and American Indians. The Center will be responsible for determining the appropriate levels of financial assistance and will make periodic payments to eligible individuals.

The Center for Income Security will assume the responsibility for HCFA activities including payment to eligible beneficiaries. The Center will be responsible for making appropriate payments to states for low income health benefits, and will continue to process Medicare claims until that program is modified to a vouchered or capitated system.

Center for Market Reform: As I have tried to emphasize throughout this paper, the government must concentrate on what it does best, and then serve as a facilitator to allow the market to do what it does best. Small market reform is the best example, to date, of moving in this direction.

The Center for Market Reform (CMR) will provide guidance to and oversight of State Health Insurance Purchasing Cooperative governing boards. The Center will establish a uniform data system that will assist in designating qualified Health Insurance Purchasing Cooperatives and will implement a system for the collection of relevant health outcomes data that will be used by the Center for Medical Evaluation.

The Center will also act as the principal liaison with the private market, so that policies can be developed that facilitate market reform. The Center will coordinate the broad range of issues that impact the marketplace,

including tax policies, ERISA, and competition.

The Center will be the focal point for federal-state relations and managed competition. It will provide policy direction to guide both state interactions and private market changes. CMR will analyze productivity data from other countries as well.

#### CONCLUSION

I have laid out an ambitious agenda for change. But the complexities presented here support the notion that no single expert, no single piece of legislation, nor any single public or private entity can "solve" the health care crisis with one big bang.

As I emphasized earlier, this is not a health reform plan in the traditional sense. I am aware that there are additional problems relating to financing access and changing the practice of medicine that require serious consideration. For example, Lloyd Bentsen and I introduced small group market reform. Our bill, S. 1872, passed the Senate twice, but was not enacted by the 102nd Congress. The Bingaman-Durenberger bill, S. 3165, establishes Health Insurance Purchasing Cooperatives and includes some of the structural reforms discussed in this paper.

No single piece of legislation can accomplish all the necessary reforms. The presidential campaign featured a variety of plans. The legislative process produced a number of bills, including bills characterized as incremental and others somewhat more comprehensive.

Reforms that I plan to introduce include restructuring the Medicare system to allow Medicare patients to purchase private insurance, particularly HMO coverage. Federal tax reform to ease the inequities in tax benefits for insured individuals will be necessary as well. I am also working with my colleagues on broader managed competition plans.

This paper emphasizes the infrastructure problems that will exist regardless of the final form of any health plan. What I conclude is that we must move concurrently to reform the infrastructure as we change the rules for the health care system. The biggest mistake we could make would be to place innovative new ways of financing and delivering health care on top of our existing infrastructure.

Dramatic structural and institutional changes will not happen overnight. We must admit that we don't yet have all the answers for the perfect design of a health care system for all Americans. We must leave room for experimentation, and we must be able to take some risks. After all, if there were a perfect plan out there, we would all be supporters of it and we wouldn't have any further debate. We must put organizations and individuals in places where they can facilitate implementation and promote thoughtful modifications. It cannot be done without designing an infrastructure for the process of health care reform.

#### SENATOR DAVE DURENBERGER

Since arriving as a senator in 1978, Senator Durenberger has been one of a select few members of Congress who have been involved in shaping the major health decisions in Washington, D.C.

He has served first as the chairman, and now as the ranking member of the Senate Finance Committee's Medicare Subcommittee. In that capacity he presided over the sweeping changes in the Medicare system during the early 1980's. The Finance Committee also deals with Medicaid, Social Security and the myriad of tax issues involving health care.

He also is a member of the Senate's two other prominent health committees, the Labor and Human Resources Committee—which has jurisdiction over the Public Health Service, FDA and the National Institutes of Health—and the Environment and Public Works Committee, which is very involved in environmental health matters.

The Senator was recently the Vice-Chair of the Pepper Commission on Comprehensive Health Care Reform. He is a member of the National Commission on Infant Mortality, which he helped establish with former Senator and now Governor Lawton Chiles of Florida. For thirteen years he has been a member of the Advisory Commission on Intergovernmental Relations and he has chaired the Senate Subcommittee on Intergovernmental Relations.

Some of Senator Durenberger's recent legislative accomplishments in health care are his co-authorship of the following major health bills: the Physician Payment Reform Act of 1989, the Catastrophic Care Act of 1988, Small Group Insurance Reform, and the creation and reauthorization of the Agency for Health Care Policy Research.

Senator Durenberger is an outspoken and vigorous proponent of bi-partisan efforts to understand and reform our health care system.

The Senator acknowledges the contributions of Susan Foote, Senior Legislative Assistant for Health, and Cheryl Austein, Legislative Fellow.

Dave Durenberger's committee and subcommittee assignments are:  
 Labor and Human Resources;  
 Disability Policy (Ranking Republican);  
 Aging;  
 Employment and Productivity; and  
 Children, Family, Drugs and Alcoholism.  
 Environment and Public Works:  
 Superfund, Ocean and Water Protection (Ranking Republican); and  
 Water Resources, Transportation, and Infrastructure  
 Finance:  
 Medicare and Long Term Care (Ranking Republican); and  
 Social Security and Family Policy.

ADDRESS BY SENATOR DAVE DURENBERGER TO THE NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS CONVENTION

Thank you, ladies and gentlemen. It is a privilege to be your guest once again. I have been looking forward to this opportunity to share with you my perspective on nine months of New Federalism negotiations, and to make a few specific legislative proposals for next year.

On February 1, just after the State of the Union message, a group of governors and senators gathered at the White House to discuss the President's federalism initiative. At that meeting, Governor Snelling of Vermont suggested that we tackle the New Federalism negotiations in two stages. He asked that in the first stage, we agree on a set of general principles to guide our efforts. Only in stage two would we address the specific program elements that would be the mechanical nuts and bolts of a legislative proposal.

It hasn't actually been a two-stage process, but some of us took up the Governor's challenge and tried to write a set of general principles. With very mixed results. It turns out that we approached the problem of principles at many different levels. Now in September, as we return to the drawing board, still fumbling with nuts and bolts, I believe the most important lessons are actually learned by examining the work that was done on general principles.

At one level, some wrote principles that are transition rules: How do we get from here to there—from old to New Federalism—in an orderly way? On June 22nd the White House published a paper that included many good transition rules: no winners, no losers; New Federalism will not be a vehicle for budgetary savings; state and local government will control the pace of transition; federalism reform will be at the top of the national agenda.

These are good transition rules. But they are only helpful after you have decided who is going to do what. Which programs ought to be returned to state and local government cannot be determined from that set of principles.

At a second level we could write a new charter for intergovernmental relations. Whatever else we do, we ought to do that. Many principles come to mind: categorical programs should be replaced by block grants and revenue sharing; mandates and regulations should be eliminated or paid for by that level of government which imposes them; federal assistance should be controlled by elected officials of general purpose government; local government should be consulted when the states are spending federal dollars.

Of course, these are sound principles. But again, they don't tell us who does what—what level of government is responsible for bridges . . . for school lunches . . . for waste water treatment . . . for migrant health clinics.

So I tried to approach the problem of principles at a third level. What we need, it seems to me, is a set of principles that describe the responsibilities of the national government.

We began our republic in just that way. Article I, Section 8 of the Constitution says that the Congress shall have the power to regulate commerce with foreign nations and among the several states, to establish a uniform rule of naturalization, to coin money, to punish counterfeiting, to establish post offices, to secure patents and copyrights, to establish standard weights and measures, to punish piracies, to raise armies and declare war, and to govern the District of Columbia.

A very limited charter. And for some time it was thought that the authority of Congress did not reach beyond these expressly stated powers. In 1854 President Pierce vetoed the first grant program passed by the Congress, arguing that its purpose, assistance to support the insane, was not included in those powers expressly delegated by Article I, Section 8.

That view didn't last. By 1862 President Lincoln was signing the Morrill Act, a grant program to assist state universities for agricultural education.

That program and hundreds of others since enacted by the Congress have been sustained by one other clause of Section 8 not yet mentioned: the power of the Congress to raise and spend money for the general welfare. With few exceptions, the whole of our national government is now launched by that single phrase. As a result, our charter is now unlimited. We are, in a sense, without principles for any kind of federalism.

So, I ask, can we begin the New Federalism where the Old Federalism began—with a set of general statements that define and limit the responsibilities of the national government? I think we should try.

Early in the first session of the next Congress, I will introduce legislation that I am calling a "Resolution of National Purposes." It will be a concurrent resolution of the

House and Senate, intended to define and limit the spending clause of Section 8. It will be a yard-stick against which we can measure the current activities of the national government. Those programs which don't fit are programs which should be returned to state and local government. Where the national government is not now meeting its whole responsibility, the resolution would call for a measuring up.

The resolution would also be a touchstone for future proposals. The active clause of the resolution would require committees of the Congress proposing new spending programs to justify those expenditures according to the national purposes defined in the resolution.

Writing such a resolution is not an easy task. I suppose that anyone could produce a long list of favored programs they want continued. But as our experience with Section 8 of the Constitution makes clear, narrowly drafted powers will not stand the test of time. The challenge is to write general principles that are also limiting principles.

I've given it some thought, and I've come up with 10 national purposes for your consideration. The first three are clearly constitutional. They reflect the concerns that brought the Founding Fathers to Philadelphia in 1787 and are reflected in those specific powers of Section 8.

The first purpose: The national government has the responsibility to secure the individual rights and liberties guaranteed by the Constitution to All Americans. "Secure" is a stronger word than "guarantee." It implies positive intervention by the national government to assure that the result, as well as the intent, is equal opportunity for all Americans. Voting rights, compensatory education, equal employment opportunity, handicapped access and legal services—all spring from the responsibility to secure individual rights.

Second, the national government has the responsibility to defend American interests and conduct foreign relations in the community of nations. In the context of our discussion today, further comment on that purpose is not necessary—except to say that we cannot pursue a defense policy so costly that we fail to have the resources necessary for other purposes.

Third, the national government has the responsibility to promote economic growth and regulate interstate commerce. This is a very large purpose, difficult to define in abstract terms. It clearly includes general economic policies to stabilize the currency, increase employment and expand output. It also includes some grant-in-aid programs—interstate highways and hub airports come to mind—where federal expenditures are a necessary step in fulfilling the interstate commerce responsibility. And, as the Constitution says, it includes regulation of "commerce among the several states."

I think commercial regulation may well become the intergovernmental background for the 1990s. Congress is considering a host of preemptions—proposals to override traditional authorities of state and local government. Product liability, coal slurry pipelines, cable TV, transportation of hazardous and nuclear wastes, pesticides—it is almost a certainty that Congress has the authority to regulate these activities. The question is whether or not we should.

But today, we have no good answer. There is no respectable theory of commercial regulation that defines roles for all levels of government in our federal system. The preemptions are decided case-by-case according to

the political muscle of the interests involved. Hopefully, a debate on national purposes would give us a new intergovernmental perspective on commercial regulation.

My next five national purposes I would describe as public administration principles. They focus on efficiency and effectiveness in the conduct of government. Defined tightly, they are intended to counter the notion that whatever is a problem everywhere is thus a problem for the national government. They are premised on the belief that the national government should not be assigned responsibility for a problem simply because that problem is widespread. That two of every five bridges in this country are deficient does not make bridges a responsibility of the national government. In that sense, bridges are no different from potholes or snow removal.

But there are domestic purposes—widely experienced problems not easily resolved by state and local officials—that the national government ought to take on. These administration principles are designed to identify those problems.

Purpose number four: The national government has a responsibility where significant savings can be realized by operating a central program. Research and development is the typical case. For example, toxicity: You don't need 50 state labs doing research on what is toxic. You don't need 50 state cancer research programs. Or highway safety: finding new technologies to improve highway safety is most efficiently done through one national program; using that technology by building it into highways is a job for state and local government.

Fifth, the national government has a responsibility where effective intervention cannot be achieved by the states acting alone. The classic example is the FBI, established to combat organized crime. Weather prediction and air traffic control are other cases where individual state programs would not be effective. Our toughest case today is the interstate transport of air pollutants—acid rain. The lakes of Minnesota or New England cannot be protected by the States of Minnesota or New England acting alone.

Sixth, the national government has a responsibility where significant benefits spill over to citizens in several states. Wilderness protection and the preservation of our cultural heritage are the best examples. Individual states do these things already. But left to themselves they won't do enough wilderness protection, for example, because the benefits are spread beyond their taxpayers to citizens across the nation and to future generations. There is a federal role—although certainly not exclusively federal.

Seventh, the national government has a responsibility when national policies impose extraordinary costs on some states or regions of the country. I think of refugee assistance. When the national government uses its immigration authority to admit tens of thousands of refugees who settle in a few states, the national government has a responsibility to provide extraordinary assistance to those states.

Eighth, the national government has a responsibility when competition among the states keeps them from implementing programs that would make all better off. I think of unemployment compensation. Before the Great Depression only one state, Wisconsin, had an unemployment compensation program. All the rest had the impression—a correct impression—that taxing employers in the good times to take care of the unemployed in the bad times would force jobs and new business investment off into neighboring

states. I think all of us would agree that the national government took a needed step when it imposed a uniform payroll tax across the entire nation to support unemployment programs.

This principle doesn't say that interstate competition is bad. It only says that when such competition makes everyone worse off by preventing necessary action by state and local government, then the national government has a role.

My final two national purposes have been at the heart of the New Federalism debate over the past nine months. They are income security and fiscal disparities.

Purpose number nine: The national government has a responsibility to provide for the income security of all Americans.

Americans realize income security in one of three ways. For most of us, income security is achieved through earnings and savings, that is, wages and salaries, savings accounts, insurance policies and various private pension plans.

For many Americans the national government supplements earnings and savings with social insurance benefits. Social security, medicare and unemployment compensation are the most important forms of social insurance.

The third part of our income security system is public assistance. AFDC, SSI, medicaid, food stamps, housing, foster care and low income energy assistance are the major welfare programs.

Our goal as a nation should be to achieve as much income security as possible—for as many Americans as possible—through earnings and savings. But social insurance and public assistance are also important national purposes. Just as we would not seek full employment through uncoordinated state programs, just as no one would propose turning social security back to the states, for the very same reasons financing public assistance—welfare—is part of the national responsibility for income security, although there are important shared roles for state and local government.

My tenth and final purpose: The national government has a responsibility to ease disparities in fiscal capacity among the states.

By now you understand the fiscal disparities problem. As a simple illustration, if Texas and Mississippi had the same tax systems—the same income tax, the same sales tax, the same property and excise taxes—Texas would raise twice as much revenue per citizen as Mississippi. Said another way, Texas needs only half the taxes to provide the same services as Mississippi.

That the national government has a role in easing fiscal disparities is a principle already well established. Many of the existing grant-in-aid programs, and most of the big ones, include some measure of fiscal capacity in the formula used to allocate assistance dollars.

One program addressed to fiscal disparities, and one important to all of us in this room, expires next year. The authorization for general revenue sharing runs out on September 30, 1983. Extending general revenue sharing must be our first priority in the next Congress. No federalism initiative of any kind should go anywhere without revenue sharing as a fundamental element.

Those are the 10 principles that I would include in a Resolution of National Purposes. They are general principles. But defined carefully, they are also limiting principles. Using them as a yardstick for the sorting out process leaves scores of federal government programs as prime candidates for the

turnback list, many more than the 160 on the list issued by the White House this past spring.

If the national government limits itself to the purposes I have suggested, then the big challenge for state and local government—for you and your colleagues—is public service delivery. Education, transportation, job training and rehabilitation, child nutrition, corrections and criminal justice, institutional care, public health and sanitation, environmental protection and resource management, social services. Meeting human needs by providing for the delivery of public services will be the focus of state and local government in the new federal partnership.

And a successful partnership will require that we reach out beyond government. Those of you who work at the most local level know that there are more institutions in our society than government. In fact, government is not even our most important institution. I'll bet you get more done for your community just being neighbors or church members or good citizens than we could ever accomplish with a federal partnership directed from Washington. Being neighbors reaching out to neighbors to strengthen the role of the family, the business firm and our churches and voluntary associations in solving public problems and meeting human needs—that's the special contribution of our town boards to American life.

I'd like to close by calling attention to one of the principles on the White House list of June 22. It says, "State and local officials are every bit as compassionate and competent and caring as officials in Washington, D.C." For many of the special interest lobbyists in this town, that is the central question raised by the President's initiative. Whenever I read that statement it calls to mind the value of New Federalism.

The President is asking that we return powers and responsibilities to the state and local governments of our nation, governments which are more readily available and responsive to the needs of individual Americans. It is a citizen-building initiative.

We Americans are unique in our understanding of citizenship. The community belongs to us. We see a problem and we make it our problem. We don't wait for an aristocracy or the bureaucracy or the Congress to invent a solution. We go out and invent one for ourselves.

It is that kind of citizenship which is the source of caring in our society. It is by participating as citizens in the life of the community that we come to understand the needs of others and see our role in the well-being of the whole community.

Now and then we should quit fumbling with the nuts and bolts of government—the turnbacks and formulas and swaps—and recall the fundamental reasons for seeking a new federal partnership. This initiative is simply a reflection of what for 200 years has been the great strength of our nation: the opportunity for the individual citizen to play an active part in the life of the community.

That is an appreciation of New Federalism that you understand better than Ronald Reagan or Dave Durenberger, because you—the towns and townships of America—are the nation's neighborhoods.

Thank you. ●

#### GUNS AND DEATH AT CABRINI-GREEN AND PALATINE

● Mr. SIMON. Mr. President, on October 13, 7-year-old Dantrell Davis was

shot and killed by a sniper who fired from the window of apartment 1001 of a building in the Cabrini-Green highrise housing project in Chicago. Dantrell was caught in gang crossfire as he and his mother walked to Jenner Elementary School, less than 40 yards away from their home in Cabrini-Green. Dantrell was the third child from his elementary school to be shot to death since last March.

On January 9, the bodies of seven people who were shot to death were found in a fast food restaurant in Palatine, IL, a suburb of Chicago. The victims included Richard Ehlenfeldt and his wife Lynn, who owned the restaurant; Guadalupe Maldonado, a restaurant cook; Thomas Mennes and Marcus Nelsen who were restaurant patrons; and Michael Castro and Rico Solis, both students at Palatine High School.

Mr. President, these two incidents, remind us that while the Congress was in recess, the gun-related violence that washes across all of society was not. Both of these tragedies were widely reported, of course, and the Nation reacted with horror and revulsion.

Amid the clatter of public comment about the carnage, it was the children who had the most poignant things to say. A young friend of Dantrell Davis remarked, "I hope that next time it won't be somebody that I know." A 9-year-old in Dantrell's housing complex was moved to remember the death of a friend's mother. She said:

They couldn't find my friend's mother. They looked and looked but they couldn't find her. Finally one day they found her body stuck in the sewer. It was all mushy and it stinked real bad. I'm glad Danny wasn't like that.

Mr. President, the common thread in the Cabrini-Green and Palatine tragedies is, of course, gun-related violence. We must find a way to muster the national will to bring an end to the terrible devastation that gun violence brings, not just in our great cities, but in communities everywhere.

There are 22,000 deaths caused by handguns annually in the United States, and the number increases every year. The increase in the number of handguns in our country has been almost unbelievable. In 1968 there were 2.4 million in circulation. By 1989, the number had increased to 66.7 million. And handguns are increasingly available to teenagers. The Centers for Disease Control recently surveyed 11,000 teenagers in 10 State and found that 41 percent of the boys and 21 percent of the girls said they could obtain a handgun whenever they wished.

Mr. President, I do not suggest that I have the answer to this terrible and complex problem. I do believe, however, that if we are ever to find an answer we must begin by realizing that gun-related violence is a disease in society, that like so many other diseases

it attacks the young, the poor, and the vulnerable disproportionately. And it strikes down more than its share of minorities.

I think we cannot look at this problem any longer as only a law enforcement matter. We must bring to bear the best minds from all disciplines including public health, which helps us understand and control the other diseases that jeopardize our well-being.

Mr. President, I ask that two press accounts of the tragedies at Cabrini-Green and Palatine be included in the RECORD: A column by George F. Will entitled, "Child of Chicago's Battle Zone," and an article from the Washington Post entitled "Illinois Town Attempts To Cope With Slayings."

The articles follow:

[From the Washington Post, Nov. 19, 1992]

CHILD OF CHICAGO'S BATTLE ZONE

(By George F. Will)

CHICAGO.—The day Dantrell Davis died, Karen McCune wrote: "I thought my life will be better than what it turned to be." That summing-up of a life was made a month ago, by a 9-year-old.

Today Karen is a 47-pound miracle of resilience. She is more than a match—so far—for the pounding that cities give childhood in this era of urban regression.

The shooting of Dantrell might have elicited a "so what?" shrug of this city's broad shoulders. After all, Chicago averages a shooting every 34 minutes and a murder every eight hours, and the more than 13,000 shootings so far this year have killed 17 children under 14. Dantrell was the third pupil at Jenner Elementary School shot dead this year. One of Dantrell's schoolmates said: "I hope that next time it won't be somebody that I know." He assumes there will be a next time, a fourth time.

Dantrell was killed by a sniper firing from a nearby high-rise as Dantrell and his mother began the 40-yard walk to Jenner from their high-rise, through the killing zone of the Cabrini-Green housing project. Today, beneath the lead-gray sky of a Chicago November, the hard wind off the lake is gusting razor-like rain horizontally and Karen is chatting in a classroom overlooking a growing puddle on the spot where Dantrell fell.

Cabrini-Green is 70 acres of appalling public policy less than a mile from Michigan Avenue's Magnificent Mile. About 7,000 people live in the 31 high rises and 60 other buildings in this public housing project. More than half the residents are under age 20. Nine percent of the residents have paying jobs.

Karen, her hair neatly braided, her white blouse and blue jumper (the voluntary school uniform that most pupils wear) immaculate, her eyes bright and her smile dazzling, patiently tells a columnist that life's not so bad if you stay indoors. "My mommy won't allow me to go outside. I stay up in the house and read books."

She usually stays away from windows. "I be scared because my bed is by the window." But the apartment where she and some siblings live with her mother is on the seventh floor, safe from most gunfire. However, "When the Bulls won [the NBA championship] a car ran into the store [across the street from her apartment] and they were shooting up and my mommy had to duck down."

Jenner School shows its 90 years but is a wonderfully clean haven for children from a

neighborhood run by armed children. For now there is a truce between the gangs, a result of a heavy police presence since Dantrell's death. The truce is a respite from the recurring need to move children into inner hallways on whichever side of the school shooting has erupted.

Karen, who even in repose has the happy can't-stop-wiggling-my-shiny-black-leather-shoes fidgets of the normal 9-year-old, nevertheless practices the prudence of the street-wise urban child: "I don't wear any Starter [a brand name] jackets because they're bad for us." Six days after Dantrell was killed, a 15-year-old from another school was killed evidently because he was slow to give robbers his Miami Hurricanes jacket.

Twenty years ago Jenner had 2,500 students. Today it has 630. Some of them have symptoms—short attention spans, difficulty sustaining relationships, a tendency to think only in stark opposites—often associated with survivors of a battle area. Small wonder. Shortly after Dantrell's death, Karen shared with a local newspaper reporter the sort of memory that marks childhood in this other America:

"They couldn't find my friend's mother. They looked and looked but they couldn't find her. Finally one day they found her body stuck in the sewer. It was all mushy and it stinked real bad. I'm glad Danny wasn't like that."

Her prescription for neighborhood improvement is common sense and contrary to public policy: "Take the gangbangers [gang members] out and take away all the guns." With an imperious sweep of a spindly arm in the direction of the high-rises, she decrees: "Mow down those buildings. Don't need to be high-rise. Five floors enough."

Social scientists debate the concept of a "culture of poverty," the intergenerational transmission of passivity and fatalism. There is such a culture but it has not claimed Karen. Her small face wreathed in a huge smile of serene certainty, she announces that she's going to college: "I'm not going to have no boyfriend or no husband or child when I'm 15 or 14 or 13. I'm going to wait until I get real, real big, until I'm"—she plucks a number from her imagination—"27."

One of her best friends is a boy who wants to be a lawyer: "He uses big words, like 'interject.'" Karen says she is going to be a teacher. She already is.

[From the Washington Post, Jan. 11, 1993]

ILLINOIS TOWN ATTEMPTS TO COPE WITH SLAYINGS

(By Edward Walsh)

PALATINE, IL., January 10.—Catherine Ernst said it was "a definite reality check" for suburban teenagers like herself. Violent crime, she knows, is an everyday fact of life in nearby Chicago and other big cities.

But today Ernst, 17, and other residents of this suburban community were coming to grips with what an assistant principal of the local high school described as the awful truth that violent death "can happen to any of us, anywhere, anytime."

It happened here sometime Friday night to seven people who were shot to death inside a fast-food restaurant along a busy, four-lane road that cuts through this town about 25 miles northwest of downtown Chicago. Their bodies, face down and piled inside a cooler and walk-in freezer in the restaurant, were discovered early Saturday morning. Since then, there have been the usual questions that follow such grisly incidents—who did it and why and could it have been prevented—but very few answers.

Palatine police reportedly have detained Martin Blake of Elgin, who employees said had been fired recently from the restaurant, for questioning in connection with the case. But Deputy Police Chief Walt Gasior would not confirm this today or provide any details except to say that no arrests had been made and that the investigation was being expanded beyond former and current employees of the Brown's Chicken & Pasta restaurant.

"The community has rallied together," declared Rita Mullins, president of this village of 40,000 people. But she also said that the local chamber of commerce was planning a meeting between business owners and police officials to discuss security measures that have become an urgent concern, particularly for the parents of the many teenagers who work in fast-food restaurants and other shops that line the town's main roads.

The restaurant where the massacre took place is along one of the roads, in the front of a small, outdoor shopping center that includes a supermarket, a hair dresser, pet shop, dry cleaner, travel agency and an armed forces recruiting center. This morning, with snow falling steadily, the shopping center parking lot was nearly empty and two police squad cars were parked near a rear door of the restaurant that employees say often was left unlocked.

The victims were a cross-section of modern, mobile suburbia, which is not immune to economic downturns. They included the owners, Richard E. Ehlenfeldt, 50, and his wife, Lynn, 49, the parents of three daughters who were said to have plunged enthusiastically into the restaurant business several months ago, seeing the business as a way out of the hard times they suffered after Ehlenfeldt lost his job with a cable television firm in 1989.

"They were excited, my brother more so than Lynn," Ann Teichow, Ehlenfeldt's sister, said today. "He really thought this was going to be a fantastic thing for them. He saw growth down the years; he wanted to have three or four stores."

The victims also included the cook, Guadalupe Maldonado, 46, who recently returned from Mexico to the Chicago suburbs, where he had lived in the early 1980s.

Little was known about two other victims, Thomas Mennes, 32, and Marcus N. Nellsen, 31. Meanwhile, much of the attention and shock about the crime was centered on the two youngest victims, Michael C. Castro, 16, and Rico L. Solis, 17, students at Palatine High School.

The school made its counseling staff available to students and their families. Among the few students who showed up were Ernst and her sister, Jessica, 14. "I read about it happening in these big cities and I just never thought of it happening in this little community," Catherine Ernst said.

Her parents and those of her friends, Ernst said, "try to protect us and then something like this happens and they realize that because of the world they can't protect us forever. It's their own reality check."

#### RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

• Mr. LEAHY. Mr. President, in compliance with rule XXVI of the Standing Rules of the Senate, I submit for the RECORD the rules of the Committee on Agriculture, Nutrition, and Forestry which were adopted by the committee on January 27, 1993.

The rules of the committee follow:

#### RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

##### RULE 1—MEETINGS

**1.1 Regular Meetings.** Regular meetings shall be held on the first and third Wednesday's of each month when Congress is in session.

**1.2 Additional Meetings.** The Chairman, in consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

**1.3 Notification.** In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, DC and at least 48 hours in the case of any meeting held outside Washington, DC.

**1.4 Called Meeting.** If three members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, a majority of the members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the committee in writing of the date and time of the meeting.

**1.5 Adjournment of Meetings.** The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

##### RULE 2—MEETINGS AND HEARINGS IN GENERAL

**2.1 Open Sessions.** Business meetings and hearings held by the Committee or any subcommittee shall be open to the public except as otherwise provided for in Senate Rule XXVI, paragraph 5.

**2.2 Transcripts.** A transcript shall be kept of each business meeting and hearing of the Committee or any subcommittee unless a majority of the Committee or the subcommittee agrees that some other form of permanent record is preferable.

**2.3 Reports.** An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

**2.4 Attendance.** (a) Meetings. Official attendance of all markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance of all subcommittee markups and executive sessions shall be kept by the subcommittee Clerk.

(b) Hearings. Official attendance of all hearings shall be kept, provided that, Senators are notified by the Committee Chairman and Ranking Minority Member, in the case of Committee hearings, and by the subcommittee Chairman and Ranking Minority Member, in the case of subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

##### RULE 3—HEARING PROCEDURES

**3.1 Notice.** Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any

subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the subcommittee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the subcommittee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

**3.2 Witness Statements.** Each witness who is to appear before the Committee or any subcommittee shall file with the Committee or subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony and as many copies as the Chairman of the Committee or subcommittee prescribes.

**3.3 Minority Witnesses.** In any hearing conducted by the Committee, or any subcommittee thereof, the minority members of the Committee or subcommittee shall be entitled, upon request to the Chairman by the Ranking Minority Member of the Committee or subcommittee to call witnesses of their selection during at least one day of such hearing pertaining to the matter or matters heard by the Committee or subcommittee.

**3.4 Swearing in of Witnesses.** Witnesses in Committee or subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or subcommittee deems such to be necessary.

**3.5 Limitation.** Each member shall be limited to five minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question a witness. Questions from members shall rotate from majority to minority members in order of seniority or in order of arrival at the hearing.

##### RULE 4—NOMINATIONS

**4.1 Assignment.** All nominations shall be considered by the full Committee.

**4.2 Standards.** In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated.

**4.3 Information.** Each nominee shall submit in response to questions prepared by the Committee the following information:

(1) A detailed biographical resume which contains information relating to education, employment, and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee; and

(3) Copies of other relevant documents requested by the Committee.

Information received pursuant to this subsection shall be available for public inspection except as specifically designated confidential by the Committee.

**4.4 Hearings.** The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office. No hearing shall be held until at least 48 hours after the nominee has responded to a pre-hearing questionnaire submitted by the Committee.

**4.5 Action on confirmation.** A business meeting to consider a nomination shall not occur on the same day that the hearing on the nominee is held. The Chairman, with the agreement of the Ranking Minority Member, may waive this requirement.

##### RULE 5—QUORUMS

**5.1 Testimony.** For the purpose of receiving evidence, the swearing of witnesses, and the taking of sworn or unsworn testimony at any duly scheduled hearing, a quorum of the

Committee and each subcommittee thereof shall consist of one member.

5.2 *Business.* A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

5.3 *Reporting.* A majority of the membership of the Committee shall constitute a quorum for reporting bills, nominations, matters, or recommendations to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

#### RULE 6—VOTING

6.1 *Roll calls.* A roll call vote of the members shall be taken upon the request of any member.

6.2 *Proxies.* Voting by proxy as authorized by the Senate Rules for specific bills or subjects shall be allowed whenever a quorum of the Committee is actually present.

6.3 *Polling.* The Committee may poll any matters of Committee business, other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public, provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of all polls.

#### RULE 7—SUBCOMMITTEES

7.1 *Assignments.* To assure the equitable assignment of members to subcommittees, no member of the Committee will receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignment to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

7.2 *Attendance.* Any member of the Committee may sit with any subcommittee during a hearing or meeting but shall not have the authority to vote on any matter before the subcommittee unless he or she is a member of such subcommittee.

7.3 *Ex Officio Members.* The Chairman and Ranking Minority Member shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members. The Chairman and Ranking Minority Member may not be counted toward a quorum.

7.4 *Scheduling.* No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee business meeting may be held at the same time.

7.5 *Discharge.* Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition. The full Committee may at any time, by majority vote of those members present, discharge

a subcommittee from further consideration of a specific piece of legislation.

7.6 *Application of Committee Rules to Subcommittees.* The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

#### RULE 8—INVESTIGATIONS, SUBPOENAS AND DEPOSITIONS

8.1 *Investigations.* Any investigation undertaken by the Committee or a subcommittee in which depositions are taken or subpoenas issued, must be authorized by a majority of the members of the Committee voting for approval to conduct such investigation at a business meeting of the Committee convened in accordance with Rule 1.

8.2 *Subpoenas.* The Chairman, with the approval of the Ranking Minority Member of the Committee, is delegated the authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing of the Committee or a subcommittee or in connection with the conduct of an investigation authorized in accordance with paragraph 8.1. The Chairman may subpoena attendance or production without the approval of the Ranking Minority Member when the Chairman has not received notification from the Ranking Minority Member of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided in this paragraph the subpoena may be authorized by vote of the members of the Committee. When the Committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other member of the Committee designated by the Chairman.

8.3 *Notice for taking depositions.* Notices for the taking of depositions, in an investigation authorized by the Committee, shall be authorized and be issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the Senator, staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Committee subpoena.

8.4 *Procedure for taking depositions.* Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. The Chairman will rule, by telephone or otherwise, on any objection by a witness. The transcript of a deposition shall be filed with the Committee Clerk.

#### RULE 9—AMENDING THE RULES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the Committee as long as any witnesses who may be affected by the change in rules are provided with them.●

#### TRIBUTE TO ATTORNEY GENERAL WILLIAM BARR

● Mr. DURENBERGER. Mr. President, while the dust is finally settling from last week's inaugural events, I thought it would be fitting to pay tribute to the outgoing Cabinet members who have served the American people and their President so well during the last administration.

Attorney General William Barr was an excellent choice to head the Department of Justice, responsible for enforcing the laws of our land. He was trusted and respected throughout the law enforcement community. Since the time he was asked to fill Dick Thornburgh's shoes, another excellent Attorney General, William Barr accomplished much in the administration of justice.

William Barr recognized how important the roles of State and local law enforcement are in fighting crime, and he knew that they needed Federal support to do their job. Federal and local cooperation in law enforcement was a hallmark of William Barr's tenure.

William Barr knew that a strong community is the best weapon against local crime. While he was in office, the Justice Department expanded the weed and seed initiative for America's troubled inner cities. This dual strategy weeds out violent crime and illegal activity and seeds the targeted community with comprehensive social and economic revitalization programs.

Attorney General Barr vigorously prosecuted civil rights violations. He also oversaw the implementation of new legislation such as the Americans with Disabilities Act, the Hate Crime Statistics Act of 1990, and the Civil Rights Act of 1991.

In the area of white collar crime, William Barr put a major focus on combating health care fraud, a phenomenon that may rob as much as 15 percent of our \$800 billion in national health care costs.

Listing all of William Barr's accomplishments in office could fill volumes. In the relatively short time he headed the Department of Justice, William Barr vigorously and earnestly enforced the law, and he deserves our thanks for a job well done.●

#### JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. INOUE. Mr. President, I submit for printing in the CONGRESSIONAL RECORD a copy of the rules of the Select Committee on Indian Affairs.

The rules are as follows:

#### JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

(Excerpts from S. Res. 4, the Committee System Reorganization Amendment of 1977, As Amended and Revised To Reflect Membership in the 103d Congress)

Select Committee on Indian Affairs, to which select committee shall be referred all

proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs:

SEC. 105(a)(1). There is established a Select Committee on Indian Affairs (hereafter in this section referred to as the "select committee") which shall consist of eighteen members, ten to be appointed by the President of the Senate, upon recommendation of the majority leader, from among members of the majority party and eight to be appointed by the President of the Senate, upon recommendation of the minority leader, from among the members of the minority party. The select committee shall select a chairman and vice chairman from among its members.

(2) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee shall adopt rules of procedure not inconsistent with this section and the rules of the Senate governing standing committees of the Senate.

(3) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(4) For purposes of para. 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

(b)(1) All proposed legislation, messages, petitions, memorials, and other matters relating to Native American affairs shall be referred to the select committee.

(2) It shall be the duty of the select committee to conduct a study of any and all matters pertaining to problems and opportunities of Native Americans, including but not limited to Indian land management and trust responsibilities, education, health, special services, and loan programs, and claims against the United States.

(3) The select committee shall from time to time report to the Senate, by bill or otherwise, on matters within its jurisdiction.

(c)(1) For the purposes of this resolution, the select committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of sec. 202(i) of the Legislative Reorganization Act of 1946, and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the select committee may be issued over the signature of the chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

(Note: On June 4, 1984, in the 98th Congress, the Senate adopted S. Res. 127 to es-

tablish the Select Committee on Indian Affairs as a permanent committee of the Senate.)

#### RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Select Committee on Indian Affairs and supplemented by these rules, are adopted as the rules of the committee.

#### MEETINGS OF THE COMMITTEE

Rule 2. The committee shall meet on the first Tuesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

#### OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the committee shall be open to the public except when the committee by majority vote orders a closed hearing or meeting.

#### HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee at least one week in advance of such hearing unless the Chairman of the committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the committee shall file with the committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the committee prescribes.

(c) Each Member shall be limited to five (5) minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question the witness unless the committee shall decide otherwise.

(d) The Chairman and Vice Chairman or the ranking Majority and Minority Members present at the hearing may each appoint one committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and Vice Chairman or the ranking Majority and Minority Members present may agree.

#### BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the committee if a written request for such inclusion has been filed with the Chairman of the committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the committee to include legislative measures or subjects on the committee agenda in the absence of such request.

(b) The agenda for any business meeting of the committee shall be provided to each Member and made available to the public at least two days prior to such meeting, and no new items may be added after the agenda is published except by the approval of a majority of the Members of the committee. The

Clerk shall promptly notify absent Members of any action taken by the committee on matters not included in the published agenda.

#### QUORUMS

Rule 6(a). Except as provided in subsections (b) and (c), ten Members shall constitute a quorum for the conduct of business of the committee. Consistent with Senate rules, a quorum is presumed to be present, unless the absence of a quorum is noted.

(b) A measure may be ordered reported from the committee unless by a motion made in proper order by a Member followed by the polling of the Members in the absence of a quorum at a regular or special meeting.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the committee.

#### VOTING

Rule 7(a). A rollcall of the Members shall be taken upon the request of any Member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only on the date for which it is given and upon the items published in the agenda for that date.

#### SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in committee hearings may be required to give testimony under oath whenever the Chairman or Vice Chairman of the committee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Members, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the committee unless the committee, in executive session, determines that special circumstances require a full or partial exception to this rule. Members of the committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the committee in the manner required in the case of Presidential nominees.

#### CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the committee or any report of the proceedings of a closed committee hearing or business meeting shall be made public in whole or in part by way of summary, unless authorized by a majority of the Members of the committee at a business meeting called for the purpose of making such a determination.

#### DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open committee hearing tends to defame him or otherwise adversely affect his reputation may file with the committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

#### BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the committee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so

as not to interfere with the sight vision, and hearing of Members and staff on the dais or with the orderly process of meeting or hearing.

#### AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the committee in a business meeting of the committee: *Provided*, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the committee agenda for such meeting at least two days in advance of such meeting.●

#### TAKE PRIDE IN AMERICA AWARD WINNERS

● Mr. SIMON. Mr. President, today it is my pleasure to recognize the 18 Illinois winners of the seventh annual "Take Pride in America" awards program for achievement in promoting conservation and environmental awareness.

Administered nationally by the U.S. Department of Conservation, "Take Pride in America" recognizes individuals and groups for their outstanding stewardship projects and awareness efforts. These initiatives focus on protecting and preserving land, water, historical and cultural resources under the jurisdiction of every level of government.

This year's winners from my State of Illinois were selected from projects implemented during 1991 or 1992. They are:

- Friends of the Fox River Inc.;
- Inspired Partnerships;
- Hanson Engineers;
- Arch of Illinois, Inc.;
- Boy Scout Woapink Lodge Order of the Arrow 167;
- Illinois River Project;
- East Peoria Community High School;
- Astoria Schools;
- Elizabeth Trummel (Husmann Elementary School);
- Project P.E.O.P.L.E.;
- Mayor Daley's Green Streets;
- Citizens Committee to Save the Cache River;
- Chicago Park District;
- Cook County Forest Preserve District;
- Ohio River Valley Water Sanitation Commission;
- U.S. Army Corps of Engineers/Rend Lake;
- Lake Shelbyville Management Office;
- and
- U.S. Army Corps of Engineers/Carlyle.

As we all know, Mr. President, a concerted effort to improve the environment is of critical importance to our well-being, as well as to the survival of future generations. Elected officials are not the only ones who can effect change in this important area, so I am proud to recognize the achievements of these Illinoisans who are so committed to a better future.●

#### MEMBERS TO SERVE ON JOINT COMMITTEES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Senate Resolution 42 and Senate Concurrent Resolution 8, resolutions reported from the Rules Committee earlier today relating to the naming of Members to serve on joint committees; that the resolutions be agreed to en bloc; that the motions to reconsider be laid upon the table en bloc.

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

The resolutions considered and agreed to, en bloc, are as follows:

#### S. RES. 42

*Resolved*, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Mathews of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on the Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

#### S. CON. RES. 8

*Resolved by the Senate (the House of Representatives concurring)*, That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

#### BILL DISCHARGED AND REFERENCED—S. 54

Mr. FORD. Mr. President, I ask unanimous consent that S. 54, a bill relating to the communications act, be discharged from the Foreign Relations Committee and rereferred to the Commerce, Science, and Transportation Committee.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### FAMILY AND MEDICAL LEAVE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 3, S. 5, the family and medical leave bill, on Tuesday, February 2, at 11 a.m., and that the majority leader may at any time, after consultation with the Republican leader, turn to the

consideration of S. 1, the National Institutes of Health authorization bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. It is my understanding in conversation with the distinguished majority leader that it is not his intention to go to S. 1 until we complete action on the family leave bill?

Mr. MITCHELL. Mr. President, that is correct. It is my intention that we complete action on the family and medical leave bill, a bill which I have stated often is a high priority, and that upon the disposition of the bill to turn to the NIH authorization bill.

Mr. DOLE. It is also my understanding the majority leader hopes to finish both of those bills next week?

Mr. MITCHELL. Mr. President, if that is possible, yes, it is my intention.

Mr. President, I thank my colleague for his cooperation.

#### ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, January 29; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 10 a.m. on Tuesday, February 2; that on Tuesday, following the prayer, the Journal of proceedings be deemed approved to date, and following the time reserved for the two leaders, there then be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; further, that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m., in order to accommodate the respective party conferences.

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

#### PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, it is my intention that the period between 11 a.m. and 12:30 p.m. on Tuesday be for the purposes of opening statements and debate only.

I do not expect that there will be any votes during that period. It may be that the managers will want to have an amendment offered that they can discuss or lay down and discuss. But I do not expect that there will be any roll-call votes. Senators should be prepared for rollcall votes when the Senate resumes session on the legislation at 2:15 p.m. on Tuesday.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:01 p.m., recessed until tomorrow, Friday, January 29, 1993, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 28, 1993:

INTERNATIONAL BANKS

LLOYD BENTSEN, OF TEXAS, TO BE U.S. GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF

5 YEARS; U.S. GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE ASIAN DEVELOPMENT BANK; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; AND U.S. GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 28, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN HOWARD GIBBONS, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY. THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING THOMAS M. KULIK, AND ENDING OLIVER P. ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING LAWRENCE Y. AGODOA, AND ENDING JANET M. RUCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ALFRED L. BRASSEL, JR., AND ENDING MARUTA TITANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING THOMAS C. BONIN, AND ENDING BRENT B. WARREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 1993.